

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

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Organisation: Children's Commissioner for Wales

1 The Bill's general principles

1.1 Do you support 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 1000 words)

The Bill is intended to protect and promote children's rights; as Children's Commissioner for Wales it is incumbent upon me to safeguard and promote the rights and welfare of children in Wales and I wholeheartedly welcome this Bill.

The Explanatory Memorandum that accompanies the Bill says that it "will prohibit the physical punishment of children in Wales by abolishing the defence of reasonable punishment." This is clearly what the Bill does in Section 1.

Removal of this defence is directly related to children's rights under the United Nations Convention on the Rights of the Child (UNCRC). In Wales, due regard for children's rights has been brought into law through the Rights of Children and Young Persons (Wales) Measure 2011. Commitment to children's rights requires more than just words however; the State is required to take action to protect children's rights and the Bill is a clear example of this.

At present children have less protection against physical punishment than adults due to the existence of this defence. Usually we give children more protection in law and the preamble to the UNCRC affirms that children need special safeguards including legal protection. The existence of this defence is a fundamental breach of the right to be kept safe from harm.

The Bill, as currently drafted, is clear and straightforward and every effort should be made to protect its clarity. In Wales, we should avoid finding ourselves in similar situations to

those found in Scotland (in 2003) and previously in New Zealand, where the legislation was amended to restrict the availability of physical punishment to specified circumstances. However, the ultimate impact was to create a 'list' of circumstances in law by which it was therefore deemed acceptable or 'justifiable' to hit a child. Legally it was far more complicated than the position has been previously.

"Reasonable punishment" is not a defined or well understood term either. What is reasonable to one person might be entirely unacceptable to another. Despite some examples in case law, there is no agreed 'list' of actions that would or would not be classified as "reasonable" in England and Wales. This creates a grey area in the law, as it is not immediately clear what would be "reasonable" in any given circumstances. Removal of the defence will create greater clarity for professionals and for parents, as it will no longer be acceptable to hit a child in any circumstances.

The removal of the defence altogether provides clarity to parents and to professionals whose job it is to offer support and guidance to parents, as the message will then be that it is never reasonable to hit a child. This can then lead on to conversations about other forms of discipline that will be more effective, as part of a streamlined and clear message on all types of physical harm.

The Explanatory Memorandum and Children's Rights Impact Assessment both clearly restate the fact that removal of this legal defence is consistent with the Welsh Government's commitment to children's rights under the UNCRC. I would add to this that the UN Committee on the Rights of the Child has repeatedly called for all forms of physical and corporal punishment to be outlawed. The UNCRC defines corporal or physical punishment as "any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light".

The Committee's most recent Concluding Observations from 2016 say the following in relation to corporal punishment:

"40. With reference to its general comment No. 8 and its previous recommendations, the Committee urges the State party, in all devolved administrations, Overseas Territories and Crown Dependencies, to:

- (a) Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as "reasonable chastisement";
- (b) Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care;
- (c) Strengthen its efforts to promote positive and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, with a view to eliminating the general acceptance of the use of corporal punishment in child-rearing."

In line with the simplicity of the drafting of the Bill, the only power to make subordinate legislation is for Welsh Ministers to designate the commencement arrangements. Given the limited scope and aims of this Bill, I see this as entirely coherent and appropriate. This does not mean that there won't be any training, guidance and awareness raising activity; on the contrary the explanatory memorandum sets out clearly the proposals in this regard. The Government also intends to convene a multi-agency group to work through implementation ahead of the commencement date and I would expect to be a part of that work also. Scotland also has an implementation group that has begun to meet as the Bill passes through Stage 1 there.

I do not believe the Bill itself needs to include awareness raising activity in order for it to take place; I could use my own role to hold the Government to account against these publically stated proposals were they not to take place. I took a similar view in my recently submitted evidence to the Constitutional and Legislative Affairs Committee in their stage 1 scrutiny as regards political education. I was clear that political education is a key component of developing and implementing the Votes at 16 policy; I would not expect to see this within the Bill itself but would hold the Government to account on their commitments if this were not brought forward following the passage of any Bill.

It is notable that previous attempts to insert clauses into other 'related' legislation in Wales such as the Social Services and Well-being (Wales) Act 2014 and the Violence against Women, Domestic Abuse and Sexual Violence Act (Wales) Act 2015, were unsuccessful. In part this may have been a consequence of the fact that those Bills had broader aims than simply to protect children's rights by removing this legal defence. It is therefore appropriate and proportionate for this single issue Bill to be brought forward to fulfil the commitments made on this topic.

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 500 words)

The Explanatory Memorandum includes consideration of the options open to the Government. The conclusion, rightly so in my view, is that this change can only be achieved through legislation. This does not amount to the creation of a new criminal or civil offence; it is simply the case that the existing statute can only be amended by further legislation being enacted. Section 58 of the Children Act 2004 as it currently exists states that the defence of reasonable punishment cannot be used in relation to offences of wounding, grievous bodily harm, actual bodily harm or cruelty to persons under 16. This Bill will ensure that the defence can no longer be claimed in Wales in relation to common assault either.

Notwithstanding this, the explanatory memorandum recognises the continued role of the Common Law in England and Wales; this will still exist and remains unaltered by these proposals. Due to the history of our legal system, we do not have a 'codified' set of all of the laws; some laws have evolved through decisions in cases (which are referred to as Common Law). Whilst countries with codified laws may arguably have more clarity in relation to the definition of offences, we do not have such a system here in the UK. There are benefits to a common law system however, as real life circumstances help to illustrate or bring to life the application of the law in a given case. It also allows the law to develop appropriately in line with changing cultural and societal perceptions, through interpretation of human rights laws and treaties into the existing laws for example.

The common law in relation to assault cases and children also assists in clarifying that often cited actions such as stopping a child from going into the road or touching a pan of hot water are not in fact inflicted acts of assault but actions designed to keep a child safe. It is clear from the common law that it is not the case that no person can ever touch another person, particularly a child. It is about physical punishment or harm as opposed to any physical contact. The purpose of the law is to prevent a person from harming someone else by the immediate infliction of unlawful force as a punishment.

Preventing a child from going into danger, such as stepping into a busy road or touching a hot surface does not require the infliction of unlawful force, and is a different sort of action entirely. Those actions therefore do not fall within the definition of an assault in statute or the common law, and never have done. As such, a parent stopping a child from stepping out into the road would not fall within the criminal law. Deliberately hitting a child to 'punish' them may however be classed as an assault if inflicted with unlawful force. The key point is whether it is significant harm and/or whether the action is intended as a punishment or to keep a child safe.

2 The Bill's implementation

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 500 words)

As noted above the Bill itself removes a defence from the law in Wales. This would mean that the laws for England and Wales would diverge slightly on this particular topic. Now that the National Assembly for Wales has full law making powers for Wales, divergence in the laws in England and Wales will only increase. This in itself is not an argument against bringing forward such a change.

Whilst not in my view a barrier as such, it is clear that the relevant guidance for the Police and Crown Prosecution Service will need to be updated, such as the Charging Standards Guidance.

As was the case in Ireland, the Bill simply removes the 'reasonable punishment' defence from the law.

As such, the criteria upon which the Police and Crown Prosecution Service investigate and make charging decisions in any cases (including physical punishment and common assault) will not change. The Code for Crown Prosecutors states that a decision to prosecute any type of case can only be taken after a two-stage test has been satisfied; i) the evidential stage and ii) public interest. The evidential test requires prosecutors to be satisfied that there is sufficient evidence to provide a "realistic prospect of conviction" against each suspect on each charge. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

In every case where there is sufficient evidence to justify a prosecution, prosecutors must then go on to consider whether or not a prosecution is required in the public interest, which includes the best interests of the child themselves. In some cases, the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution. This second stage also requires prosecutors to consider whether a charging decision would be proportionate. The two stage test will not be altered under these proposals, and the best interests of the child will remain a paramount consideration in applying the test, as required by the Children Act 1989 and the UNCRC.

54 countries around the world have already prohibited physical punishment and there has been no evidence of significantly increased prosecution of parents in these countries following the change in law.

The relevant Codes of Practice and charging standards will need to be updated to reflect the change of the law in Wales. The Explanatory Memorandum states that the CPS will take the defence into account when deciding whether or not to charge, if it is 'likely to be successful', although I have been unable to find this within the Charging Standards for Offences against the Person. It is clear that the Standards would have to be updated to reflect the change in the law. In his evidence to the Commission on Justice, the Chief Crown Prosecutor for Wales stated that "we see no difficulty in adopting a slightly different approach in Wales".

On 21st March 2019, the Equalities and Human Rights Committee of the Scottish Parliament took evidence from two panels; the first included Andy Jefferies from Social Work Scotland and the second included John McKenzie representing Police Scotland. Both were supportive of the Bill and did not anticipate any changes to how their agencies work when the Bill is implemented. This is because they already work in a multi-agency process similar to the way that Police and Social Services in Wales are required to hold strategy discussions or meetings

in relation to referrals that meet a certain threshold. They, together with other partner agencies, will decide the best course of action and which agency or agencies should take the matter forward. The processes followed are set out in the All Wales Child Protection Procedures 2008. John McKenzie commented that even though the defence exists now, whether or not there is a defence should have no impact on the process that the agencies follow. The same should be true here in Wales.

In relation to the commencement of the Bill, I note from Section 2(2) that the substantive provision of the Bill (section 1) would come into force "on a day appointed by the Welsh Ministers in an order made by statutory instrument." I note and understand the requirement to have a suitable period post Royal Assent (should the Bill pass) in order to do the training, awareness and updating of documents referred to above. I would however like to see this commitment delivered within this Government's term of office if at all possible. It might be preferable to specify a commencement date or period after which commencement will take place, in order to ensure the Bill does come into force. I understand that the Bill in Scotland is proposed to be implemented 12 months after Royal Assent.

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 500 words)

In order to achieve change, it is recognised in the Explanatory Memorandum that it will be important to undertake a significant awareness campaign alongside the legal changes, but it would not be possible to change attitudes and behaviours by awareness raising only. If anything it could be more confusing, as a campaign without a corresponding law change would appear contradictory to the legal position that would still otherwise allow parents or those acting in loco parentis to claim a physical punishment of their child was reasonable.

Equally Protected? A review of the evidence on the physical punishment of children found that there is strong and consistent evidence from good-quality research that physical punishment is associated with increased childhood aggression and antisocial behaviour. "In other words, parents who are using physical punishment in response to perceived problem behaviour are likely to make it worse". Physical punishment also affects children's emotional and mental health.

The second of the report's four policy recommendations was that "Legislation should be accompanied by large-scale information and awareness campaigns to inform the population of the merits of positive parenting and the harm caused by physical punishment. These should be aimed at different levels: individuals, communities and the whole population." This was based on research relating to some of the 54 countries who have already prohibited the use of physical punishment of children in all settings has expressly considered whether

legislation, awareness and education, or a combination of the two is the most effective way to achieve cultural change.

The key messages were as follows:

- In many countries, including the UK, the prevalence of physical punishment is declining and public attitudes have shifted, with the use of physical punishment becoming less and less acceptable and a high proportion of parents doubting its usefulness.
- There is convincing evidence that declines in physical punishment are accelerated in countries that have prohibited its use, and that such laws have important symbolic value.
- Legal bans in many countries have been implemented without a majority of public support.
- There is evidence that the passage of legislation in combination with public awareness campaigns leads to a change in public attitudes.

The Explanatory Memorandum for the Bill also refers to the 2018 PPIW (as they were then known) report 'Legislating to Prohibit Parental Physical Punishment of Children'. This report found that knowledge is less widespread where a change in the law is not accompanied by a publicity campaign or a campaign is not sustained. The available evidence strongly favours the use of legislation alongside campaigns.

There are further benefits to introducing this legislation. Evidence published in the British Medical Journal in October 2018 highlighted research findings that among the 54 countries or territories which have banned physical punishment, many have experienced a reduction in youth violence:

"The association appears to be fairly robust... the 30 countries that have passed laws banning such punishment in schools or in homes have significantly lower rates of fighting among adolescent – 69% for males and 42% for females - compared to the 20 countries with no such bans."

In the context of policy developments in Wales related to Adverse Childhood Experiences and developing awareness of the impact of early childhood trauma, it is important to break the cycle of unhealthy behaviours that can impact on the person themselves as they grow up but also on future generations. This Bill has the potential to have a positive impact on levels of violence in future, as the research indicates.

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

(we would be grateful if you could keep your answer to around 500 words)

The Bill is part of a wider package of measures the Welsh Government is proposing to support children and their parents. Support for parents will continue to be provided, including the positive parenting campaign, and services delivered by partners in local government, health, education, social services, social justice and the third sector. Universally accessible services include services provided by the Family Information Services, GPs, health visitors and midwives. In addition, more targeted interventions, such as Flying Start and Families First will continue to offer support and advice to parents.

Positive Parenting techniques are considered to be more effective than physically punishing a child, as well as not causing them physical and/or emotional harm.

The budget for local authorities and health services comes from the Welsh Government, so if additional funding will be required to facilitate awareness raising and the continuation of universal services, this is within the control of the Government to allocate. The budgets for future years when the plans are likely to come into effect will not yet have been set. In 2018 I gave written and oral evidence to three Assembly Committees on the importance of children's budgeting and using a rights based approach in doing so. Considering the impact on children's rights of individual or a collection of budget decisions allows the Government to maximise the allocation of resources to promote and uphold rights. A rights based budget analysis would ensure that the Government continues to take forward their commitments to children's rights as part of the wider package of measures related to this Bill.

I anticipate that the Committee and other Assembly Members will be keenly interested in the potential impact of the proposals on public services and professionals.

The Police, the Crown Prosecution Service and Social Services already receive and investigate reports of children being physically punished, and they determine these on a case by case basis, looking at all of the circumstances and taking into account the child's best interests.

At present the defence of reasonable punishment requires a subjective judgment to be exercised by the Police and CPS, in determining what is "reasonable" in the case. Removal of this defence would mean that there is more clarity in the criminal law for both parents and professionals. It is clearly understood that it is not acceptable to hit an adult under any circumstances, and the same should be the case for children.

Even if a parent has hit their child, this would still not automatically result in them being charged and prosecuted; as noted above there are a number of considerations to be worked through. Public service agencies will continue to work together and refer parents to the most

appropriate avenue in order to gain help and support with any challenges that they might be facing.

I understand that there may be concern that parents will be 'criminalised' by the removal of this defence. John McKenzie from Police Scotland commented in his recent evidence to the Scottish Parliament that he could not see how the Bill (in Scotland) in itself would criminalise parents.

In oral evidence to the Commission on Justice in Wales in 2019 the Chief Crown Prosecutor for Wales suggested that the number of cases these changes are likely to affect is "probably in single figures". Cases that do meet the high evidential and public interest thresholds would, given all of the criteria, necessarily be very serious. On that basis a prosecution may well be justifiable. I note from recent evidence given to the Scottish Parliament's Equalities and Human Rights Committee by Jillian van Turnhout (the Senator who took the proposals through in the Republic of Ireland), that there has only been one known prosecution since the defence was abolished in Ireland. In that case, a member of the public made the report to social services after witnessing a child being severely hit in a public car park. When this was further investigated it was found that this was not a one off incident; the child had suffered "significant abuse".

Social services' remit will not change as a result of these proposals and neither will the threshold for initiating child protection procedures or taking a child into care. A child has to be at risk of suffering or have suffered significant harm as a result of the actions of their parents. There is a wealth of case law on what is meant by 'significant', but it has to be more than trivial or unimportant, having regard to any associated trauma and the potential emotional or psychological consequences of the harm. In any case taken to court it is for the Judge to determine whether or not the harm is significant. It is then a separate decision as to whether or not the child should be removed from their parents' care; this does not automatically follow.

As of 6th April 2016, social workers and other professionals ("relevant partners") are under a duty to inform the local authority if they have reasonable cause to suspect that a child in their area is at risk of abuse or neglect, or is in need of care and support (Section 130 of the Social Services and Well-being (Wales) Act 2014). There is a similar duty to report where adults are suspected to be at risk of abuse or neglect, in Section 126. However, this does not automatically mean that social services will intervene. The local authority will, as they currently do, consider the nature of the report and the circumstances, and apply their usual thresholds for assessments and/or signposting to appropriate support services.

When I've spoken to lead professionals for the police and children's social services across a number of years, they have welcomed the clarity that the removal of this defence would bring. The development of suitable materials and resources to work with parents in a different way will reinforce this. In her recent evidence in Scotland as above, Jillian van

Turnhout noted that she had contacted different civil society organisations and state agencies in Ireland ahead of the session, and they were all still positive about the clarity that was brought by the change in law. "It has helped social workers with their relationships with parents. Social workers tell me that previously when they met parents and the moral discussion started about whether a parent can or cannot hit their child, they had to say, "Well, I don't think it's a good idea," but they could not be authoritative about that, whereas now they can say, "You're not allowed to hit your children, so let's talk about what you can do."

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)? If no, go to question 5.1

(we would be grateful if you could keep your answer to around 500 words)

Funding this Bill and the associated costs related to training and awareness raising, can in my view be legitimately considered as preventative spend by the Government. This is because the Bill aims to change behaviours and result in fewer children suffering harm and early childhood trauma as a result of being hit. This is likely to have an impact later in life in terms of their behaviours and resilience. The Equally Protected? report referred to above noted that there is strong and consistent evidence for a link between physical punishment and childhood aggression, antisocial behaviour and delinquency. Physical punishment tends to exacerbate existing problem behaviour, and can lead to a cycle of conflict. Childhood physical punishment can also be linked to adult aggression and antisocial behaviour, including aggression and sexual violence within intimate partner relationships. Among children, physical punishment can also be related to depressive symptoms and anxiety. Other negative outcomes shown to be related to physical punishment included adult mental illness and adult substance abuse. There may therefore be long term savings for public services as a result of this change.

There is little published evidence available about the effects on public services in other countries that have made similar legislative changes. There is some evidence available from New Zealand, where the police service published data about the numbers of cases reported to them in the three months before and five years after the law was changed, as noted in the Explanatory Memorandum. It is in my view reasonable to anticipate an increase in reporting of physical punishment incidents as a result of law change and awareness of that change but that does not necessarily result in prosecution or ongoing state involvement.

In addition, it will be rare for ongoing social work involvement to be necessary unless a referral uncovers more significant or longer term issues. A single issue referral could be dealt with via signposting to an appropriate agency rather than undertaking a lengthy course of work or higher level intervention.

It is notable that data from a Freedom of Information request covering 2009 – 2017 identified just three possible cases where the defence had been used in criminal court cases. All of these cases came from England. I accept that the use of the defence is not monitored by a 'marker' in Police or CPS computer systems that can be reported against, so some caution is needed in relation to the figures.

The Explanatory Memorandum notes a number of factors that will be related to reporting and prosecution rates, including awareness, societal attitudes, and agency policies. In respect to the last of these, I would disagree that this is a material influencing factor. Agencies will change their policies to reflect the law as it stands, but the processes set out in the All Wales Child Protection Procedures (currently being updated) and the individual thresholds for intervention will not materially change. The approach to the process of dealing with cases, and what each agency's policy is for this, will not be affected by this change.

Many of the calculations used in the Regulatory Impact Assessment are based on available data from New Zealand. This is understandable as it was identified as the most relevant comparator, but in light of my previous comments on the approach, it has to be noted that there was no specific educational and media campaign to explain the law change in New Zealand. The proposals that accompany the Bill aim to raise public awareness so that people have the opportunity to modify their behaviours before the proposals are enacted.

As I have already suggested, the awareness and education campaigns will be a vital part of a success of these proposals. I note the figures quoted at the highest intensity would be £2.76M over a seven year period; this is substantially less however than for the organ donation scheme. I note that John Finnie MSP's estimate for a campaign in Scotland is £300,000; the Scottish Government put that figure at £20,000. This shows that it is not an exact science and there are a large number of variables. I am however pleased to see the Welsh Government fully embracing the need for wide spread awareness raising and training, following last year's public consultation. The Government is required to raise awareness of the the principles and provisions of children's rights under the UNCRC in any event, according to their duties under Article 42.

I note the costs per referral are estimated as £535 each time for social services and £650 per referral to the Police. In relation to the Police, following a retrospective audit of recorded offences, the retrospective baseline is estimated as 274 referrals per annum. However, the estimated number of cases being taken forward in Wales, based on one in seven or eight being identified as related to reasonable punishment, over 5 years is just 38.

The CPS has carried out their own cost impact assessment. They estimate the total additional annual cost impact on them following implementation of the Bill would be between £2,000 and £4,000 per annum. This does not sound like a high number of cases at all or a significant impact.

5 Other considerations

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 1000 words)

It is often stated that physical punishment of a young child is the only way to get them to listen, as it is not possible to rationalise their behaviour or ensure that they understand in any other way. However, an adult with severe learning difficulties or suffering from dementia may not be able to understand an explanation or have a reasoned discussion about their behaviour either. It is completely unacceptable both legally and culturally to hit an adult in any circumstances, including an adult with learning difficulties or dementia. It is therefore difficult to justify the physical punishment of a child for the same reasons, particularly as a young child is inherently vulnerable by virtue of their physical size and development and their limited ability to express their own views.

Although not referred to in the Explanatory Memorandum, I believe that the Government's proposals to introduce compulsory Relationships and Sexuality Education, including healthy relationships, will be another important aspect of the cultural change the Bill seeks to promote. This is because the removal of the defence for reasonable punishment should be seen as part of Wales's rejection of violence, including physical punishment, in any circumstances in relationships between people. Children who are physically punished are receiving a message that one person can make another person do something they wish them to do by physically punishing them. This Bill aims to ensure that this message is as unacceptable in adult-child relationships as it is in adult-adult relationships.

I agree with John Finnie MSP who introduced the Bill in Scotland, that the purpose of a Bill to abolish the reasonable punishment defence ("justifiable assault" in Scotland) is "not to prosecute people; it is to set a clear direction of travel".

In my annual report for 2017/18 I included a section on equal protection from physical punishment (page 42 onwards). The report was published in October 2018 so before the Bill had been introduced. My recommendation was that "a Bill should be introduced as soon as possible to make sure that the Government's commitment is followed through". In that report I also included a selection of views from children in Year 5 at a primary school in south Wales. They had contacted my office during the Government's consultation period. They held a debate on this topic and wanted to share their views with me and the then Minister for Children, Older People and Social Care. I will reproduce those views here as I believe they make a strong and clear statement on this issue:

"Children should be protected not smacked"

"Smacking can always go too far, where do you draw the line?"

“Some people think you have to smack children for them to learn how to behave. I disagree, it is completely unnecessary”.

“you should talk and explain so that they don’t do the same thing again”

“Instead of smacking you can ban TV or the iPad; anything is better than smacking.”

Due to the scrutiny requirements in passing a Bill, the process for submitting evidence for consideration is necessarily formal. I would urge the Committee as a whole and individual members to engage with children and young people and gain their views directly on this topic. The children I have spoken to have all given the topic a tremendous amount of thought and recognise the arguments around the potential harm to them if a parent were to be investigated or charged. However the overwhelming majority seem to be against the physical punishment of children and many are amazed that it isn’t already prohibited in a modern democratic country like Wales, that formally respects human rights.

Attitudes to parenting practices have also been changing over the years. In 1998, 88% of parents polled believed that it was sometimes necessary to ‘smack’ a naughty child; however, by 2017, this figure had dropped significantly to 11% . Removing the defence of reasonable punishment will encourage parents in their use of more positive parenting techniques which are proven to be more effective. Jillian van Turnhout reflected in the evidence referred to above, that when the Republic of Ireland removed this defence, the law was “catching up with how parents are parenting their children today”. It is time for Wales to do the same.