

Equal protection for children: Removing the defence of reasonable punishment in cases of assault and battery



Children in Wales
Plant yng Nghymru

This briefing has been prepared by Children in Wales to give an overview of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

Background

Currently, section 58 of the Children Act 2004 provides a defence of 'reasonable chastisement' to common assault or battery against a child, which allows parents to use physical punishment in England and Wales.

The defence of reasonable punishment is only available to a parent or a person acting in the place of a parent. Physical punishment of children in schools and other settings involving education was prohibited by section 47 of the Education (No. 2) Act 1986 (now repealed) and is now set out in section 548 of the Education Act 1996. This legal defence is available only in relation to the offence of common assault or battery, or tort of trespass, against a child.

Following campaigns over a number of years, the Welsh Government committed to removing the defence of reasonable punishment to give children the same protection from assault that adults have.

Children in Wales' position

Children in Wales has long campaigned for an end to physical punishment of children. Research from across the globe shows overwhelmingly that physical punishment is ineffective at managing children's behaviour, and is harmful to children's development, disrespects their dignity and human rights, and is not appropriate in the modern world. Today we are in possession of up to date scientific research about perinatal and early child development that was not available to past generations of parents which reinforces this position. Parenting practice depends on what knowledge is available at the time. We were therefore delighted to see that proposed legislation has been introduced to the National Assembly for Wales that would remove the defence of reasonable punishment in cases of assault and battery against children. This legislation will close the loophole that gives children less protection in law than adults.

The legislation will improve good outcomes for children and influence public opinion as it is a tool for encouraging positive parenting techniques such as praise and rewards, being consistent, and introducing boundaries early instead of physical punishments.

Legislation

The Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill was introduced to the Assembly on 25 March 2019.

The aim of the Bill is to help protect children's rights by prohibiting the physical punishment of children by parents and those acting in loco parentis. The prohibition of the physical punishment of children is consistent with the Welsh Government's commitment to children's rights under the United Nations Convention on the Rights of the Child (UNCRC).

The intended effect of the Bill, together with an awareness-raising campaign and support for parents, is to bring about a further reduction in the use and tolerance of the physical punishment of children in Wales.

On 2nd August, the Children Young People and Education Committee reported on evidence received at Stage 1 of the scrutiny process. The Committee gave its support to the legislation, saying that it is likely to help safeguard children from physical punishment and harm, and to bring clarity to the law. The importance of an information campaign and support for parents was also reinforced

Positive parenting

Closing of the loophole in the law that allows physical punishment of children will encourage parents to use positive parenting techniques instead of physical punishment.

The Welsh Government has created an initiative, Parenting – Give it Time, which helps parents to encourage positive behaviour, boost the child's confidence and support their development with resources and information for parents. You can find out more here: <https://gov.wales/parenting-give-it-time>.

There are other parenting programmes such as the NSPCC's Take 5 campaign also offers simple steps for positive parenting: <https://www.nspcc.org.uk/preventing-abuse/keeping-children-safe/take-five/>

Further information

You can follow the progress of the Children (Wales) Bill through the National Assembly scrutiny process at <http://bit.ly/2x1h0SD>. You can find a summary of the Bill on the Senedd Research blog at <http://bit.ly/30r1bvS>.

An explainer video is available on the Welsh Government website at <http://bit.ly/2kbv2nW>.