

4th September 2014

Communities, Equality and Local Government Committee
 Gender-based Violence, Domestic Abuse and
 Sexual Violence (Wales) Bill: Stage 1
 Response from: Play Wales



Committee Clerk
 Communities, Equality and Local Government Committee
 National Assembly for Wales
 Cardiff Bay, CF99 1NA.

CELG.Committee@wales.gov.uk

Re: Consultation on the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill

1. Play Wales is the national charity for children's play.
2. We work to raise awareness of children and young people's need and right to play and to promote good practice at every level of decision making and in every place where children might play.
3. We provide advice and guidance to support all those who have an interest in, or responsibility for providing for children's play so that one day Wales will be a place where we recognise and provide well for every child's play needs.
4. Play Wales is pleased to have the opportunity to input into the consultation on the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill_
5. Play Wales believes that the Bill provides an ideal opportunity for an amendment to remove the 'reasonable punishment' defence, in line with Deputy Minister for Social Services, Gwenda Thomas's commitment made on 11th Feb this year.
6. Indeed the omission of such provision in the Bill could be seen as representing a potential failure to pay 'due regard' to the UNCRC.
7. The Explanatory Memorandum to the Bill states that the overall intention is to have a greater focus on prevention of violence, the protection of victims and support for all affected. While hitting children remains legal there can be no consistency of approach in either prevention or protection from violence and abuse.
8. Any work to reduce and prevent interpersonal violence – such as healthy relationships education - will be seriously undermined unless it is absolutely clear that using violence of any kind to control or punish others (whatever their age) is never acceptable
9. Welsh Assembly Government and the National Assembly for Wales have a long history of support for giving children 'equal protection' and have in the past acknowledged that it is a human rights imperative.

One day Wales will be a place where we recognise and provide for every child's play needs

Un dydd bydd Cymru'n wlad ble y byddwn yn cydnabod ac yn darparu ar gyfer anghenion chwarae pob plentyn

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Llywodraeth Cymru
 Welsh Government

10. There can be no excuse for further delaying reform, placing vulnerable children at risk and failing to respect children's right to protection under Article 19 of the United Nations Convention on the Rights of the Child.
11. The groundwork preparing for this change in Wales has been underway for over a decade. The current situation is confusing for parents and to the general public. Welsh Government and the National Assembly need to demonstrate strong leadership – as has happened in the 38 countries who have already taken this step – and show that they are serious about respecting human rights.
12. Including an amendment to the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill that removes the 'reasonable punishment' defence in relation to assaults on children is both a human rights imperative and a logical part of the Welsh Government efforts to reduce tolerance of violence and promote equality.
13. The Committee on the Rights of the Child, the authoritative UN body for interpretation of the requirements of the CRC, has consistently emphasised that the Convention requires prohibition of the use of physical punishment and the removal of any defences or authorisations for it. It has recommended to the UK Government three times that it should remove the "reasonable punishment" defence completely (section 58 Children Act 2004, applying to England and Wales). In its 2008 concluding observations the Committee welcomed "the commitment of the National Assembly in Wales to prohibiting all corporal punishment in the home, but notes that (at that time) under the terms of devolution it is not possible for the Assembly to enact the necessary legislation." This is now no longer the case
14. The Committee went on to express concern at the failure of the UK as a State party to explicitly prohibit all corporal punishment in the home and to emphasize its view "that the existence of any defence in cases of corporal punishment of children does not comply with the principles and provisions of the Convention, since it would suggest that some forms of corporal punishment are acceptable." Other UN Treaty Bodies and regional human rights mechanisms also emphasise the immediate obligation of states to remove any defences or authorizations of physical punishment.
15. The National Assembly for Wales and successive Welsh Governments have emphasized since 2002 their desire to remove the "reasonable punishment" defence completely. In October a cross-party majority of AMs passed a motion urging the Welsh Government "to bring forward legislation for consideration by the Assembly which would end the availability of the defence of 'lawful chastisement' for an offence of assaulting a child." This followed confirmation from the First Minister that it was the Welsh Ministers' view that the Assembly does now have the power to pass the necessary legislation.
16. Play Wales urges the Welsh Government to include this Bill, provision to remove the defence of 'reasonable punishment'
17. Wales has a proud record on promoting and protecting children's rights and a reputation across the UK and internationally for its principled stances in support of children's rights. Leadership should ensure that Wales is the first part of the UK to afford children equal protection in law following the examples of the majority of the Council of Europe's 47 member states.

Kind Regards

A handwritten signature in black ink, appearing to read "Mike Greenaway". The signature is fluid and cursive, with the first name "Mike" written in a slightly larger, more prominent script than the last name "Greenaway".

Mike Greenaway
Director