

Communities, Equality and Local Government Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date:

Wednesday, 17 September 2014

Meeting time:

09.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

Private pre- meeting (9:00–9:15)

1 Introductions, apologies and substitutions

2 Gender-based Violence, Domestic Abuse and Sexual Violence (Wales)

Bill: Evidence Session 2 (Panel of Children's Organisations) (9:15–10:30)

(Pages 1 – 86)

Des Mannion, National Head of Service, NSPCC Wales

Sara Reid, Co-ordinator, Children are Unbeatable! Cymru

Eleri Griffiths, Development and Training Officer, Children in Wales

Menna Thomas, Senior Research and Policy Officer, Barnardos Cymru

Break (10:30–10:40)

3 Gender-based Violence, Domestic Abuse and Sexual: Evidence

Session 3 (Panel of Academics) (10:40–11:50) (Pages 87 – 106)

Professor Emma Renold, School of Social Sciences, Cardiff University
Professor Jonathan Shepherd, Violence Research Group, Cardiff University
Jackie Jones, Professor of Feminist Legal Studies, Bristol Law School, UWE Chair,
Wales Assembly of Women President, European Women Lawyers Association

4 Papers to note (Pages 107 – 143)

5 Motion under Standing Order 17.42 (ix) to resolve to exclude the public from the meeting for the following business: Items 6, 7 and 8

6 Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill: Stage 1 – discussion of evidence sessions 2 and 3 (11.50 – 11.55)

7 Holiday Caravan Sites (Wales) Bill: Consideration of draft Stage 1 Report (11.55 – 12.25) (Pages 144 – 199)

8 Legislative Consent Memorandum: Deregulation Bill (12.25 – 12.30)
(Pages 200 – 209)

Document is Restricted

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

NSPCC Cymru/Wales

Response to:

**Communities, Equality and Local Government
Committee:**

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

Date: September 2014

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About us:

The National Society for the Prevention of Cruelty to Children (NSPCC) is the UK's leading children's charity specialising in child protection. Our vision is to end cruelty to children in the UK. We make a difference for all children by standing up for their rights, listening to them, helping them when they need us and by making them safe.

The NSPCC runs projects and services across the United Kingdom and Channel Islands to help vulnerable children. We also provide ChildLine, the UK's free, confidential 24-hour helpline and online service for children and young people and a helpline for adults who are worried about a child or want advice.

1 Introduction

- 1.1. NSPCC Cymru/Wales welcomes the opportunity to provide evidence to support Stage One scrutiny of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill (henceforth the Bill).
- 1.2. NSPCC Cymru/Wales has consistently called on the Welsh Government to see domestic abuse from a child's point of view and we welcome this Bill as a positive step forward. We are pleased that the overarching aims of the Bill to improve the **prevention, protection and support** for victims and people affected by gender-based violence, domestic abuse and sexual violence in Wales reflect a number of our core priorities for children and young people who experience domestic abuse.
- 1.3. Estimates show that around 150,000 children and young people in Wales are affected by domestic abuse at any one time.ⁱ During 2012-13, ChildLine bases across the UK carried out 3,114 counselling sessions where domestic/partner abuse was the young person's main concern. Of these, 98% told us who the person responsible was. Where the perpetrator of domestic/partner abuse was known, 76% were the young person's partner or ex-partner and 24% related to young people who witnessed domestic abuse in the family.
- 1.4. The profound impact intimate partner abuse can have on children, whether they are physically abused themselves; witness the abuse of another person, or experience abuse within their own relationships is well evidenced.ⁱⁱ At the same time it is important to recognise that there is no uniform response to living with domestic abuse, each child and each child's reactions are unique.ⁱⁱⁱ It can be hard to discern the specific impact on a child of living with domestic abuse, especially as some of the resulting behaviours co-occur in children experiencing other forms of abuse or neglect.^{iv} For many children the impact of living with domestic abuse is compounded by, and interwoven with, the impacts of the direct sexual and/or physical abuse they are also experiencing from the same, usually male, abuser.^v NSPCC research on child maltreatment showed that more than 34 per cent of under 18s who had lived with domestic abuse had themselves been abused or neglected by a parent or guardian.^{vi}
- 1.5. Research shows that domestic abuse is a central issue in child protection, and is a factor in the family backgrounds in two thirds of serious case reviews where a child has died.^{vii} The wide range of effects children might experience can include children becoming fearful or distressed, or suffering physical, psychological or emotional developmental problems which may be short-and/or long-term.^{viii} Children who experience domestic abuse often display more behavioural and emotional problems, both internal (such as depression and anxiety) and external (such as aggression or anti-social behaviour) than other children and they are more at risk of mental health difficulties in adult life.^{ix}
- 1.6. NSPCC Cymru/Wales also believes that this legislation provides a vital opportunity to fully recognise and address the fact that young people are at risk from domestic abuse in their own relationships. In 2009, research commissioned by the NSPCC from the University of Bristol^x found concerning levels of physical, emotional and sexual partner violence amongst teenage girls and boys:

- **88 percent of young people had some kind of relationship.**

- A quarter of girls and 18% of boys reported some form of physical partner violence;
- Nearly three-quarters of girls and half of boys reported some form of emotional partner violence
- Just over a third of girls and 16% of boys reported some form of sexual partner violence.

1.7. Moreover, a growing body of literature into pre-teen relationship cultures is demonstrating that patterns of sexual coercion and harassment are not confined to older teens but are also emerging in the everyday lives of pre-teen children.^{xi} This was a core finding of the 'Boys and Girls Speak Out'^{xii} research project carried out with 125 children in 8 schools across South Wales, on behalf of the National Assembly for Wales Cross Party Group on Children's Sexuality, Sexualisation and Equalities (CSE), and funded by NSPCC Cymru/Wales, Cardiff University and the Office of the Children's Commissioner for Wales. This evidence of the prevalence of young boyfriend/girlfriend cultures in primary school highlights the need for appropriate measures and interventions to start early. NSPCC Cymru/Wales would like to see this gap addressed by the Bill.

2 About the NSPCC

2.1. The NSPCC is here to end cruelty to children. As part of the NSPCC's Strategy towards 2016 we deliver services which are innovative, distinctive and designed to capture and disseminate learning. Section 1.4 highlights the cumulative and interwoven nature of the impacts of domestic abuse with other forms of child abuse and neglect. Our response to the multi-layered and intertwined nature of neglect and abuse has been the development of a suite of cutting edge new services, many of which are offered across our three service centres in Wales.^{xiii} Our service centres are designed to be places where children can feel safe and supported and better able to overcome the trauma they have experienced and our evaluation of the services we provide help us to understand the range of issues and any challenges in the prevention, protection and treatment of abuse.

2.2. As part of our suite of services on offer across Wales, NSPCC Cymru/Wales is currently operating and evaluating two services; DART and CDSC specifically to support children and families who are affected by domestic abuse. In Wales we will also shortly be delivering a new service 'Protect and Respect' which offers preventative and protective initiatives to young people who have been sexually exploited or who are vulnerable to this sort of abuse, this may also be relevant to the consideration of appropriate services under the GBV, DA, SV Bill.^{xiv}

2.3. **Domestic Abuse: Recovering Together (DART).** Services often focus on helping mothers to recover from domestic abuse and overlook the harm caused to their children. Mothers who have lived with a violent partner can often neglect their children's physical and emotional needs. Children can find it hard to talk to their mums about what has happened.

2.3.1. NSPCC Cymru/Wales operates DART out of our Prestatyn Service Centre. DART works with children between seven and 11 years old and their mums. It is designed as a group work programme that runs for 10 weeks, with sessions lasting between two and two-and-a-half hours. Time is spent working with children and mothers separately, helping them to draw up a safety plan and cope with any difficult

behaviour in their children. We help children to understand what has happened and explore their feelings about it.^{xv}

2.3.2. DART has been evaluated over a three year period in eight sites across the UK.^{xvi} As part of a mixed-method evaluation, interviews were conducted with mothers and children following their attendance at DART. The findings were published in the journal *Child Care in Practice* in 2013.^{xvii} They include:

- Mothers and children interviewed were, on the whole, positive about DART and felt it had helped their recovery and relationship with one another.
- The interviews also enabled the identification of barriers and facilitators which affected the extent to which outcomes could be achieved.
- Elements that facilitated the programme included: activities that helped participants to deal with different feelings related to the abuse; sessions where mothers and children worked together, which helped to improve their relationship; and supportive staff and peers who enabled participants to feel less alone.

2.3.3. The final evaluation of DART is due to be published in Autumn 2014 and we will ensure that the Welsh Government and Committee Members receive a copy of the report and a briefing about the findings.

2.4. **Caring Dads: Safer Children (CDSC).** Is an evidence-based programme^{xviii} which protects children by working with fathers who have been violent towards their partners or ex-partners. It helps fathers recognise the impact their behaviour has on their children and improve their parenting. CDSC is currently operating out of our Cardiff and Prestatyn Service Centres.

2.4.1. Children can be deeply traumatised by witnessing violence between their parents or carers even if they do not suffer violence directly. Serious Case Reviews often highlight the need for a better understanding of the risks angry and violent dads can pose to children, particularly after parents separate.

2.4.2. All participants must be willing to change their behaviour. Convicted men normally must have undertaken a relevant course to address their violence before they join the programme.

2.4.3. CDSC is currently being evaluated by the NSPCC in five sites across the UK. Interim findings were published in January 2014.^{xix} Key findings include:

- Generally, fathers found being a parent less stressful and interacted better with their children after they had attended the programme
- Over a quarter of mothers had symptoms of depression at the beginning of the programme and one in six reported symptoms of anxiety. Depression and anxiety among mothers had reduced by the end of the programme.
- Surveys of children and partners post-programme suggest that CDSC can bring about meaningful improvements in fathers' behaviour that make families feel happier and safer.

Comments on the general principles of the Gender-based Violence, Domestic Abuse and Sexual

Violence (Wales) Bill and the need for legislation to improve the public sector response in Wales to domestic abuse, gender-based violence and sexual violence:

3 Definitions and Wording of the Bill

3.1. **Definition of Gender-based Violence:** NSPCC Cymru/Wales notes that a key area of discussion about the Bill has been the decision to use the term 'Gender-based Violence' in place of 'Violence against Women' which was the title of proposed legislation under the White Paper consultation. Welsh Government has stated that this wording has been adopted for legal reasons and to reflect the content of the Bill which aims to provide support for all victims. We note that the Explanatory Memorandum and draft guidance documentation supporting the Bill make clear statements acknowledging that women suffer disproportionately from this violence. We are aware of debates over the use of the Gender-based Violence terminology in the Bill. We would urge the Committee's scrutiny process to seek assurance that whichever approach is used will not preclude the commissioning of specialist services to respond to the specific and complex needs of different groups and will not undermine action to tackle the unacceptably high prevalence of violence against women.

3.1.1. NSPCC Cymru/Wales welcomes the clear inclusion of Female Genital Mutilation (FGM) in the definition of Gender-based violence in the Bill and we are pleased that the Bill's coverage of children will mean that it will capture the demographic that are most likely to be affected.^{xx} The NSPCC has been working to raise awareness and to improve the protection and support available to children at risk of or who have been victims of FGM in the UK. We operate a free 24-hour FGM helpline^{xxi} and are currently collating evidence through an NSPCC and Home Office FGM survey.^{xxii}

3.2. **Visibility of Children: UNCRC and Rights of Children and Young Person's Measure.** NSPCC Cymru/Wales welcomed the commitment to the UNCRC within the White Paper. Whilst we welcome that the Children's Rights Impact Assessment accompanying this Bill has been published (an analysis of the Bill against Articles 1,2,3,6,9,19,27,34 and 39) we are concerned that the supporting documentation and guidance to this Bill makes very little mention of children and where it does this is not with direct reference or does not make use of the UNCRC as a framework. Article 19 of the UNCRC states that

1. *States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent (s), legal guardian(s) or any other person who has care of the child.*
2. *Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and those who have the care of the child, as well as other forms of prevention, and for the identification, reporting, referral, investigation, treatment and follow up of instances of child maltreatment.*

NSPCC Cymru/Wales does not feel that currently the Bill provides sufficient detail about how the work of the Ministerial Advisor and national and local strategies will fulfil all aspects of Article 19 with regards to children and young people who experience domestic abuse and how it will include specific provisions for children as rights holders. The Social Services and Wellbeing (Wales) Act includes a provision that *'a person exercising functions under this Act in relation to a child' ...must have due regard to Part 1 of the United Nations Convention on the Rights of the Child'*. NSPCC Cymru/Wales therefore calls for a similar provision to be included in this Bill and that the UNCRC is used as a central framework of any statutory guidance issued under Section 12 of the Bill.

3.3. Definitions of 'Abuse' and 'Domestic Abuse'

- 3.3.1. NSPCC Cymru/Wales welcomes that the proposed definition does not mention a specific age range of 16 years or over, which is a feature of the current Home Office non-statutory definition. We welcome clarification in the supporting documentation that the Bill extends to all victims of gender-based violence, domestic abuse and sexual violence, including children. We endorse this acknowledgement of the growing evidence that children and young people are experiencing intimate partner violence in their own relationships. NSPCC Cymru/Wales however believes that, as set out in Section 3.2 the extension to cover children should be underpinned by a specific provision on due regard to the UNCRC and needs to include serious consideration of points made in sections 4 and 5 of this response.
- 3.3.2. NSPCC Cymru/Wales notes that the definitions enshrined in the Bill will become the standard definitions of GBV, DA and SV for Wales. NSPCC Cymru/Wales believes that definitions of domestic abuse are highly significant, as the majority of stakeholders working together to tackle this problem, undertake their work with reference to government definitions. We are aware that there are currently various different definitions in use across Welsh Government. We note that the current Home Office definition differs to the definition used in the Welsh Government Bill (particularly with regards to coercive control and age limits) and could be enshrined into legislation with the recent announcement of the Strengthening the Law on Domestic Abuse' consultation which proposes the creation of 'a specific offence of coercive control'. NSPCC Cymru/Wales feels that potential dissonance between the Home Office definition and the Welsh Government definition may undermine clarity for the different agencies involved especially due to the fact that policing and criminal justice are not devolved. Crucially, we believe definitions of domestic abuse must assist rather than hinder stakeholders in achieving their goal of the eradication of domestic abuse. We would therefore reiterate the importance of this opportunity to establish clear, robust and consistent definitions in line with internationally accepted standards.

3.4. NSPCC Cymru/Wales would like to see:

- **A clearer reference to children on the face of the Bill and under the Rights of Children and Young Persons (Wales) Measure a clearer analysis of measures from a UNCRC perspective throughout the supporting documentation and draft guidance underpinning the Bill.**
- **The inclusion of a provision requiring due regard to the UNCRC in the Bill and the use of the UNCRC as a central framework of any statutory guidance issued**

under Section 12 of the Bill.

- **Definitions of domestic abuse must assist rather than hinder stakeholders in achieving their goal of the eradication of domestic abuse. We would therefore reiterate the importance of this opportunity to establish clear, robust and consistent definitions in line with internationally accepted standards.**

4 Prevention of gender-based violence, domestic abuse and sexual violence

- 4.1. A primary aim of this Bill (as introduced) is stated to be '*to improve arrangements for the **prevention** of gender-based violence, domestic abuse and sexual violence*'. NSPCC Cymru/Wales was therefore concerned to see that White Paper proposals to ensure that compulsory education on 'healthy relationships' is delivered in all schools and to promote a whole school approach, are currently absent from the Bill.
- 4.2. NSPCC Cymru/Wales believes that the **compulsory and expertly delivered provision of healthy relationships education** underpinned by a **whole school approach for all children and in all schools in Wales** is fundamental and critical to the success of the aims of the Gender-based Violence, Domestic Abuse and Sexual Violence Bill.^{xxiii} Crucially, this should be taught from a perspective of gender equality and human rights. We welcome the statement on 9th July that consideration is being given to how further provisions would be included at Stage 2 or 3 of the Bill's scrutiny process.
- 4.3. NSPCC Cymru/Wales notes the ongoing Independent Review of Assessment and the National Curriculum Wales. We submitted a response to this consultation and made clear our position that we believe this opportunity should be taken to incorporate mandatory healthy relationships education as a core part of the PSE curriculum in Wales.^{xxiv} It is also NSPCC Cymru/Wales' view that this is an important opportunity for the PSE framework to be refreshed, and its content be made statutory^{xxv} to ensure greater consistency in key skills taught in different schools across Wales. This will be crucial to ensure adequate status, resource and prioritisation of healthy relationship education within the curriculum. In a separate paper submitted in collaboration with Barnardo's and Welsh Women's Aid we call for clarity, at Stage One of the scrutiny process, about how the commitment to compulsory and expertly delivered healthy relationships education will be delivered by Welsh Government.^{xxvi}
- 4.3.1. Sections 1.5 and 1.6 outlined evidence of the need to better recognise and address the fact that young people are at risk from domestic abuse in their own relationships. NSPCC Cymru/Wales sees this legislation as a key opportunity to do so. Furthermore we have highlighted growing evidence that patterns of sexual coercion and harassment are not confined to older teens but are also emerging in the everyday lives of pre-teen children. This is further corroborated by recent data from ChildLine filtered to capture those young people aged 16 and under:
- In 2012/13, ChildLine dealt with approximately 270,000 counselling sessions with children and young people of this age group.
 - Of those sessions, 10% overall stated that the call was about problems or concerns with a current or former partner.

- Depression and unhappiness was the main concern for children and young people aged 16 and under where the person of concern was a partner/ex (2,400 counselling sessions).^{xxvii}

4.3.2. It is therefore our view that ‘age appropriate’ education on healthy relationships, which focusses on tackling gender stereotypes and inequalities, is vital to ensure safer futures and well-being for young people. We believe that this cannot start early enough and we would like to see provision **start at primary level and run right through to secondary level in Wales.**^{xxviii} It is also important to note that there is currently no standardised PSE content that directly addresses primary-aged children’s experiences of negotiating sexism, sexual harassment and sexual violence within a gender equalities framework.

4.3.3. Moreover, recent studies have synthesised a range of international research demonstrating that embedding approaches, which focus on Social and Emotional Learning (SEL), can lead to significantly improved social and emotional skills, attitudes and behaviour, which in turn leads to improved academic performance with studies showing between 11-17-percentile-point gains in achievement.^{xxix} NSPCC is currently piloting an approach to ‘Keeping Safe’ messages in Northern Ireland.^{xxx}

4.4. **Whole School Approach:** These findings about the wide ranging benefits of a ‘wellbeing’ approach support NSPCC Cymru/Wales’ recommendation that provision should take place through a series of compulsory initiatives in schools to tackle the roots of domestic abuse and integrated with a **‘whole school approach to pupil wellbeing’** to provide better support for children and young people affected by such violence. Careful consideration also needs to be given to provision for children and young people outside of mainstream education.^{xxxi} NSPCC Cymru/Wales recommends:

- **Healthy relationship education delivered by practitioners with specific expertise in gender and equality issues, including violence against women and girls.**
- **An environment where children feel safe to discuss, share and disclose, taking an integrated approach that makes better use of existing opportunities within the school day.**
- **Relationship and sex education to be informed by children’s own experiences (“things that are going on for us”) and where children can learn from each other.**
- **Healthy relationship education to be developed with children and young people in a way that is relevant to their local community and experiences.**
- **A designated person with expertise for children to ‘talk to’ about gender and sexuality issues outside lessons.**
- **Robust training and clear guidance for professionals delivering healthy relationship education on dealing with disclosures.**
- **Sufficient school-based counselling services in primary and secondary schools**
- **Provision for children and young people outside school settings with a specific focus on vulnerable and hard to reach groups.**

4.4.1. NSPCC Cymru/Wales welcomed the vision and ethos underpinning the White Paper of building a society and culture in Wales built on a belief system where everyone has the right to live in a safe community, free from violence and abuse. We believe

that this will only be achieved by taking forward the whole range of education proposals set out in the White Paper. We believe that this integrated approach is crucial to instil the values and qualities in our children that will lay the foundations for future citizens of who will shape a society free from violence and abuse.

- 4.4.2. The series of calls (section 4.2) that would underpin a whole school approach would foster an environment supportive of ‘children’s wellbeing’, where children feel safe to discuss, share and disclose, in accordance with the UNCRC. We would urge that this is an approach that needs to be integrated into the school day and believe there are opportunities to make better use of existing opportunities within the school day (registration, circle time etc.) to create opportunities for children and young people to share issues that are concerning them. NSPCC Cymru/Wales would point out that a ‘whole school approach’ encompasses a range of measures that can be considered outside of the question of whether healthy relationships will form a mandatory part of compulsory PSE provision in schools in Wales. We note that under Para 59, Exp. Mem., the Welsh Government is considering ‘supporting measures to ensure schools embed actions on violence against women, domestic abuse and sexual violence more generally’. We would suggest that as part of this process there should be further consideration of a requirement on all schools and further education institutions to develop ‘whole school’ strategies alongside the development of Local Authority and Local Health Board Strategies (possibly in Guidance under section 12 of the Bill). We would also like to see further information about how this guidance/requirement would be monitored to ensure compliance in 100% of schools in Wales. We believe that implementing our call for a designated person ‘or champion’ in each school for children to talk to about gender and sexuality issues outside of lessons would support this process.
- 4.5. **Learning from Children:** We have already highlighted (Sections 1.5 and 1.6) a range of evidence that is increasingly showing that young people are at risk from abusive behaviour in their own relationships, demonstrating a clear need to ensure that young people are provided with the knowledge and tools to protect themselves from abusive behaviour.^{xxxii} The ‘Boys and Girls Speak Out’^{xxxiii} research project carried out on behalf of the National Assembly for Wales Cross Party Group on CSE, not only highlights a need for more recognition of ‘young person relationship abuse’ but underlines the importance of ensuring children’s own voices, views and experiences are able to shape future research, policy and practice in this area (Article 12, UNCRC).
- 4.5.1. A key finding from the ‘Boys and Girls Speak Out’ research highlighted the importance of ‘starting from where children are at’ in terms of their own experiences and their own relationships. Moreover NSPCC/ChildLine findings show that young people do not always feel engaged in PSE and would like to see improvements in the way that sexual and relationships education (SRE) is taught.^{xxxiv} It is important that children and young people are involved in the development of appropriate content.
- 4.6. **Expertly delivered provision:** A comprehensive programme of PSE education which addresses a range of issues, from equalities to bullying, exploring how these can impact on attitudes to violence in the home and in relationships and accompanied by a whole-school approach requires serious thought about who is best placed to deliver such a programme. NSPCC Cymru/Wales believes that schools will need support from a range of external agencies to deliver such a programme and to

address the range of complexities. It is also vital that a co-ordinated programme of education is provided across Wales.

- 4.7. **Robust training and clear guidance for professionals:** NSPCC Cymru/Wales has highlighted the need to ensure the provision of comprehensive VAW and equalities training for all related professionals and we welcome statements about the need to ensure that the people delivering healthy relationships education in our schools are appropriately trained to respond effectively to disclosures.^{xxxv} We welcome the development of a National Training Framework (NTF) for Wales and NSPCC Cymru/Wales is feeding in to its development through the Content Delivery Group. We would recommend that the National Training Framework should be closely coordinated with and aligned to eventual compulsory PSE provision and the embedding of a 'whole school approaches' in Wales. It is important that key actors in schools and further education institutions are included at the appropriate levels of the NTF and we would also suggest consideration of whether appropriate training could be integrated into initial professional training of key public service professionals such as police, health professionals and teacher training programmes, including the new Masters in Education Practice (MEP) programme.

4.9 NSPCC Cymru/Wales would like to see:

- **Clarity on how the commitment to compulsory and expertly delivered healthy relationships education will be delivered at Stage One of the National Assembly for Wales' scrutiny process.**^{xxxvi}
- **Ensure that all elements of a whole school approach as outlined in section 4.4 are clearly included in guidance under section 12 of the Bill. Consideration of the feasibility of requiring all schools and further education institutions to develop 'whole school' strategies as part of this guidance. We would also like to see further information about how this guidance/requirement would be monitored to ensure compliance in 100% of schools in Wales.**
- **Healthy relationship education delivered by expert practitioners with specific expertise in gender and equality issues, including violence against women and girls. Robust training and clear guidance for professionals on VAW and dealing with disclosures.**
- **PSE content on healthy relationships/SRE to be informed by children's own experiences and developed with children and young people in a way that is relevant to their local community and experiences.**

5 Improved Support/Protection for children and young people affected by gender-based violence domestic abuse and sexual violence

- 5.1. In our response to the White Paper consultation proposals, the NSPCC Cymru/Wales made clear our support for proposed measures including: the appointment of a Ministerial Advisor; the development of a National Training Framework; placing a duty on key public sector professionals to 'ask and act'; placing a duty on relevant bodies to contribute to multi-agency fora; to improve information sharing and to place a duty on public sector employers to have a workplace policy for violence against women domestic abuse and sexual violence. We welcomed this basket of measures

as a coherent approach to improving the public sector response to all aspects of violence against women and to strengthen and better integrate services to ensure that they are consistent, effective and of a quality standard. As noted in section 3, we are pleased that the measures included in the Bill on this aspect will extend to children.

- 5.2. NSPCC Cymru/Wales notes the provision under the Bill that places a duty on Local Authorities and Local Health Boards to prepare a joint local strategy on Gender-based Violence, Domestic Abuse and Sexual Violence for their area, which will be reviewed annually.
- 5.3. NSPCC Cymru/Wales regrets that the duty on employers to implement a workplace policy and a National Training Framework will now be delivered outside of the Bill. NSPCC Cymru/Wales also notes that the detail of how public bodies will fulfil the new 'local strategy' duty under this Bill, particularly in regards to White Paper proposals of duties to 'ask and act' and to contribute to multi-agency fora, will be taken forward under Guidance. We note the draft Guidance published alongside the Bill and that this Guidance will be released for public consultation in due course and we look forward to the opportunity to comment in detail at this point.
- 5.4. Whilst we welcome the mention of 'public education, the Ask and Act process, training for staff and the sharing of information' as key areas that future statutory guidance **can** cover (Expl. Mem Para 31), we would welcome further assurance and detail that public authorities will be **required** to include **each one of these areas** in their local strategies. We would reiterate that measures related to children should be developed in accordance with the UNCRC.
- 5.5. Despite the welcome decision to include children within the scope of the legislation, NSPCC Cymru/Wales feels that the Bill and draft guidance fails to address the rights and needs of children who witness or experience domestic abuse *as individuals*, particularly in relation to services for children. We would like to see further detail on the provision of services to children, based on their own rights under the UNCRC.
- 5.6. The fragmented 'stop start' nature of services for children and families experiencing domestic abuse has been highlighted by recent research.^{xxxvii} NSPCC Cymru/Wales is however concerned that despite good intentions, it remains unclear how proposed approaches will work in practice. There is currently a severe lack of sufficient 'specific' provision for children, in accordance with Article 19 UNCRC, to match the evidence of need. Concerns have consistently been raised by stakeholders about the existing post-code lottery of services across Wales and we are concerned about the wide variation in expertise and capacity to provide the sorts of specialised services needed to provide adequate support to children. We would also express concern that the current balance between primary and secondary legislation in this Bill could lead to variance of services that risks undermining accountability. We would like to see a stronger emphasis on measures to improve the commissioning of services (particularly services to support children and young people) included in the Bill.
- 5.7. NSPCC Cymru/Wales was disappointed that the Welsh Government Independent Review of Violence against Women, Domestic Abuse and Sexual Violence services in Wales published in April 2014 omitted the consideration of services for children and young people from the study. We regret the missed opportunity to consider the services needed for children, in the mapping of the current landscape of service

provision of Wales. We would suggest that further work to map the provision of services for children in Wales should be carried out.

- 5.8. Sections 1.5 and 1.6 of our response emphasise the clear need to better understand and respond to the needs of young people who experience or use domestic abuse in their own relationships. Currently 'adult' programmes are often merely adapted to be 'delivered' for young people, rather than trying to understand how their relationships (and therefore the abusive behaviour) may need a different response. There is currently a lack of evidence-based services to serve children and young people and we believe that this needs to be addressed. It also remains the case that children are rarely given opportunities to express their views about what they feel is effective and become involved in decisions about the type of services needed.^{xxxviii}
- 5.9. In addition, historically, there has been a lack of co-ordination between legislation and policy to address domestic abuse and the approach to child protection with each set of responses operating in their own silos, creating a significant barrier to addressing family and intimate partner issues effectively. NSPCC Cymru/Wales would highlight that there remains significant work to be done in piloting and evaluating evidenced-based programmes and interventions to ensure that responses to the complex lives of children and young people are unified and not segmented. It is also vital that adequate funding is made available to support this. Resources such as the All Wales Child Protection Procedures Review Group practice guidance on 'Safeguarding Children and Young People affected by Domestic Violence' should be a key part of the development of services and should inform the development of training under the NTF.^{xxxix}
- 5.10. There is also no mention of perpetrator programmes in the supporting guidance to the Bill, NSPCC Cymru/Wales would underline the importance of early identification and interventions with perpetrators, as a key part of holistic approach to these issues. Our programme (Section 2.3) Caring Dads: Safer Children, while not a perpetrator programme, takes an alternative approach to addressing Domestic Abuse behaviours with fathers.
- 5.11. Sections 2.3 and 2.4 of this response highlight DART and CDSC, two NSPCC services that are currently being delivered across the UK, including in Wales, and are currently in the process of being evaluated. We highlight these services as the sorts of evidence-based programmes that should be considered as part of building better responses for children in Wales.
- 5.12. NSPCC Cymru/Wales notes the mentions throughout the draft Guidance accompanying the Bill to the All Wales Domestic Abuse and Sexual Violence Helpline. The NSPCC would suggest that the fact that the Bill covers children, means that it would also be important to signpost to the NSPCC helpline. We thought it may be helpful to provide suggested text for inclusion:

NSPCC deliver a range of pioneering evidence base therapeutic and protection services directly to children/young people and their families who have domestic abuse in their families. Our services include the 24/7 NSPCC Helpline for anyone concerned about the welfare of a child and we provide support for all children and young people through ChildLine via telephone, email or online, 24 hours a day/365 days a year.

- 5.13. We would also welcome clarity about how elements of the new 'strategy duty', including multi-agency fora, will align with current local mechanisms for planning and service delivery including the Local Service Board and the Single Integrated Plan. Recent changes to policy and legislation in Wales means that various multi-agency approaches to address family support have developed which encompass responses to domestic abuse, these include: Team around the Family, Families First Initiatives, Integrated Family Support Services. Furthermore these complement a series of initiatives including Flying Start and Communities First which are integral parts of the Welsh Government's approach to tackling poverty (as these programmes support the demographic recognised to be at higher risk of domestic abuse, this often forms a core part of the work of interventions under these initiatives. It will be particularly important to provide practitioners and agencies with clarity given proposed changes to LSBs and SIPs under the forthcoming Wellbeing and Future Generations (Wales) Bill and the implementation of the recommendations of the Commission on Public Service Governance and Delivery.
- 5.14. NSPCC Cymru/Wales would welcome further detail about the accountability of new 'local strategies'. NSPCC Cymru/Wales believes that to achieve the aim of a better co-ordinated approach, at a minimum, there should be a role for the Local Service Board in monitoring and evaluating the local strategies. It will also be crucial to ensure clear links with safeguarding and child protection strategies, policies, partners and procedures including SCBs and new SABs. We would like further information about how local strategies will be assessed and evaluated to ensure consistency and a common approach across Wales and further detail about how the Welsh Government will deal with non-compliance.
- 5.15. **Outcomes Framework:** NSPCC Cymru/Wales believes that a robust outcomes framework will be fundamental to the achievement of the aims of the Bill in order to provide agencies with common goals and to ensure better data collection, information and monitoring. In accordance with points made in Section 3.3 indicators developed need to be underpinned by the UNCRC. We would also urge that the indicators and outcomes measured as part of this Bill align with other Outcomes Frameworks being developed by Welsh Government, particularly under the Social Services and Wellbeing (Wales) Act, the Together for Mental Health outcomes and the joint Families First, Flying Start and Communities First outcomes.

5.16. **NSPCC Cymru/Wales would like to see:**

- **A more detailed consideration, underpinned by a specific provision, throughout the legislation and supporting guidance of the rights and needs of children under the UNCRC who witness or experience domestic abuse as *individual rights bearers*.**
- **Further funding, piloting and an extension of evidence-based programmes for dealing with the specific needs of children and young people who experience domestic abuse. This needs to pay particular attention to developing specific evidenced-based programmes (not just adaptations of adult programmes) that respond to the experiences of partner violence in children's own relationships.**
- **Ensure that new multi-agency structures ask and act processes and the NTF complement existing frameworks, initiatives and programmes for supporting**

children and young people experiencing domestic abuse. There should also be clear links and communication channels with safeguarding and child protection strategies, policies, partners and procedures.

- **Clear accountability structures and a framework of robust outcome indicators aligned with the UNCRC that ensure that new local strategies are in synergy with existing initiatives at a local level to ensure the delivery of better services for children. Clear links with safeguarding and child protection strategies, policies, partners and procedures.**

6 Equal Protection

- 6.1. NSPCC Cymru/Wales is a member of the Children are Unbeatable! Cymru alliance which calls on Welsh Government to fulfil their commitment to the United Nations Convention on the Rights of the Child (in particular article 19) by removing the defence of “reasonable chastisement” under section 58 of the Children’s Act 2004.
- 6.2. NSPCC Cymru/Wales has consistently made clear its position that children need, deserve and have a right to equal protection from all forms of violence, under the United Nations Convention on the Rights of the Child. Arguments supporting the removal of the defence of “reasonable punishment” are set out in a range of CAU and NSPCC briefings on this subject and the First Minister and legal advisers have confirmed that Wales has the power to act.
- 6.3. The Rights of Children and Young Persons (Wales) Measure requires Ministers to have due regard to the CRC; now that Wales has the power to fulfil this clear requirement of the CRC. NSPCC Cymru/ Wales believes the Rights of Children and Young Persons (Wales) Measure places an obligation on the Welsh Government to close the rights violation represented by the defence of “reasonable chastisement” under section 58 of the Children’s Act 2004 at the earliest opportunity.
- 6.4. We believe that **both** the Gender-based Violence, Domestic Abuse and Sexual Violence Bill and removing the defence of “reasonable chastisement” under section 58 of the Children’s Act 2004 are important building blocks for a society where future generations can grow up free from violence and abuse.

6.5. NSPCC Cymru/Wales urges:

- **The Committee, in its Stage One report, to recommend that the Welsh Government utilises the legislative opportunity that this Bill presents to provide children with equal protection under the law on assault.**

Or

- **The Welsh Government to make clear during Stage One scrutiny how it will fulfil its duty under the Rights of Children and Young Persons (Wales) Measure to close this ongoing rights violation to protect children from harm and violence.**

Comments on any potential barriers to the implementation of provisions included in the Bill, and whether the Bill takes account of them.

- Section 5 made clear our view that any emerging structures must value existing local partnerships and frameworks for supporting children and young people who experience domestic abuse, particularly integration with existing safeguarding and child protection systems.
- Together with the new Social Services and Wellbeing Bill there will be a number of duties on well-being, child protection, protection of vulnerable adults and workforce development which will need careful planning and integration, monitoring and oversight which must not take place in isolation from each other.
- Learning from safeguarding and workforce development policies aimed at identifying and intervening earlier in cases of child neglect mean that we know that professionals need to be supported both in terms of developing awareness, expertise and skills and in having appropriate caseloads to enable them to have the time to fulfil their duties. Potential barriers include overloaded and under-resourced services as a result of increased disclosures and referrals. We have highlighted that the current lack of evidence-based provision to deal with the specific and complex nature of children's experiences of domestic abuse is a potentially significant barrier. The 'local strategy' duty must be underpinned by a focus on piloting and embedding new services and initiatives to ensure a co-ordinated response and to give frontline professionals the confidence that services will be there to support referrals.

Whether there are any unintended consequences arising from the Bill

- We have considerable concerns that the decision to omit the commitment made in the White Paper about the delivery of healthy relationships in all schools in Wales could undermine the achievement of the preventive agenda of the Bill.
- We are concerned that without focused attention and funding for the development of adequate and specialised services for children and young people, there will be challenges in effectively responding to increased referrals as a result of the Bill's coverage of children.
- Definitions must clarify and not complicate the work of practitioners and service providers.
- Local Strategies must also complement existing structures, frameworks and initiatives to support practitioners and stakeholders and not hinder them by adding complexity.

The Financial Implications of the Bill

- NSPCC Cymru/Wales believes funding for services which support children and families must be long-term and sustainable to avoid the uncertainty and impact on outcomes caused by short-term funding. Our recent 'How Safe Are our Children Report 2014 reported that expenditure for the main areas of public spending relating to child protection and safeguarding, levels in 2012/13 dropped back to 2006/07 levels and is forecast to fall further, this is set against a backdrop of an extraordinary increase in the demand for services.^{xi}
- We would like to see a strategic approach to funding to deliver improved services to support children who experience domestic abuse based on their own rights and needs, whether they remain at home or are forced to move to temporary accommodation. As highlighted in Section 5, there is a general gap in services to support children. The legislation must ensure the rights and needs of children who experience domestic abuse are met regardless of whether they remain in the family home or accompany a parent to refuge, or whether domestic abuse is presenting in their own relationships. Consistent funding must be applied to support this.

- Any consideration of the costs of implementing the legislation should also take into account the work of Sylvia Walby and analysis of the related costs at a Wales level, which emphasise the costs of failing to adequately address domestic abuse.^{xii}

ⁱ NSPCC Cymru/Wales Briefing (2010). *Domestic Abuse: A Child's Point of View*. Available at: https://www.nspcc.org.uk/.../DomesticAbuseBriefing_wdf63544.pdf NSPCC (2011). *Child Abuse and Neglect in the UK Today*. London: National Society for the Prevention of Cruelty to Children.

ⁱⁱ A range of evidence is synthesised in: McManus, E., Belton, E., Barnard, M., Cotmore, R., and Taylor, J., (2013). *Recovering from Domestic Abuse, Strengthening the Mother-Child Relationship: Mother's and Children's Perspectives of a New Intervention*. *Childcare in Practice*: 19:3, 291-310.

ⁱⁱⁱ Hester, M., Pearson, C. and Harwin, N. (2007). *Making an Impact: Children and Domestic Violence: A Reader, Second Edition. Chapter 3, p.63*. London: Jessica Kingsley Publishers.

^{iv} Holden, G.W. and Ritchie, K.L. (1991). *Linking extreme marital discord, child rearing, and child behaviour problems: evidence from battered women*. *Child Development* 62, 311-327.

^v Hester, M., Pearson, C. and Harwin, N. (2007). *Making an Impact: Children and Domestic Violence: A Reader, Second Edition. Chapter 3, p.63*. London: Jessica Kingsley Publishers.

^{vi} Radford, L. et al. (2011) as cited by Radford, L.; Aitken, R.; Miller, P.; Ellis, J.; Roberts, J. and Firkic, A. (2011) *Meeting the needs of children living with domestic violence in London*, London: NSPCC/Refuge.

^{vii} Brandon, M. (2009). *Understanding Serious Case Reviews and their Impact: A Biennial Analysis of Serious Case Reviews 2005-07*; Brandon, M., Bailey, S. and Belderson, P. (2010) *Building on the learning from serious case reviews: a two-year analysis of child protection database notifications 2007-2009*. London.

^{viii} Webster, A.; Coombe, A. and Stacey, L. (2002) *Bitter Legacy: The Emotional Effects of Domestic Violence on Children*,

London: Barnardo's. The research showed that in nine out of 10 cases of domestic violence, children were present in the next or same room.

^{ix} Ibid. Humphreys, C. (2006) *Domestic violence and child abuse. Research and Practice Briefing*. No.14, Department for Education and Skills. Stanley, N., Miller, P., Richardson, Foster, H., and Thomson, G. (2010). *Children's experiences of domestic violence: Developing an integrated response from police and Child Protection Services*. UCLAN/NSPCC. Available at:

http://www.nspcc.org.uk/Inform/research/findings/children_experiencing_domestic_violence_report_wdf70355.pdf ; Kolbo, J.R., Blakeley, E.H., & Engelman, D. (1996), 'Children who witness domestic violence: A review of the empirical literature', *Journal of Interpersonal Violence*, vol.11, no.2; Morley, R., & Mullender, A. (1994) 'Domestic violence and children: what we know from research' in Mullender, A., & Morley, R. *Children living with domestic violence: putting men's abuse of women on the childcare agenda/*

^x Barter, C. McCarty, M., Berridge, D. and Evans K. (2009). *Partner Exploitation and violence in Teenage Intimate Relationships*, London, NSPCC and University of Bristol. Available at: http://www.nspcc.org.uk/Inform/research/findings/partner_exploitation_and_violence_summary_wdf68093.pdf/. The report looked at 1,353 young people, between 13 and 17 years old from England, Scotland and Wales exploring their experiences of relationships and partner violence.

^{xi} Pelligrini, A. D. (2001) 'A Longitudinal Study of Heterosexual Relationships, Aggression, and Sexual Harassment during the Transition from Primary School through Middle School'. *Journal of Applied Developmental Psychology*, 22, (2): 119-133; Pelligrini, A. D. (2002) 'Bullying, Victimization, and Sexual Harassment During the Transition to Middle School'. *Educational Psychologist*, 37 (3): 151-163; Stein, N. (1996) 'Sexual Harassment in School: The Public Performance of Gendered Violence'. *Harvard Educational Review*, 65 (2): 145-162; Stein, N. (2007) "Locating a Secret Problem: Sexual Violence in Elementary and Secondary Schools." In L. O'Toole, J. R. Schiffman & M. L. Kitter Edwards (Eds.), *Gender Violence: Interdisciplinary Perspectives*, 2nd Edition. (pp. 323-332) New York and London: New York University Press; Stein, N. (2013) "Middle school sexual harassment, violence and social networks" Mumford, E., Okamoto, J., Taylor, B., and Stein, N., *American Journal of Health Behavior*, 37(6), 769-; Afra, A. (2013) *'Primary school sexualities. A critical social psychological foregrounding of children's constructions of "childhood sexuality"'*. Unpublished PhD thesis. Dublin: Trinity College; Gadin, K. G. (2012) *Sexual Harassment of Girls in Elementary School: A Concealed Phenomenon Within a Heterosexual Romantic Discourse*, *Journal of Interpersonal Violence*, June, 27: pp. 1762-1779; Holford, N., Renold, E. and Huuki, T. (2013) 'What (Else) Can a Kiss Do?: Theorising the Power Plays in Young Children's Sexual Cultures'. *Sexualities*, 16 (5-6): 710-729.

^{xii} Renold, E (2012) *Boys and Girls Speak Out, a qualitative study of children's gender and sexual cultures*. Cardiff: Cardiff University, NSPCC & Office of the Children's Commissioner for Wales http://www.nspcc.org.uk/Inform/research/findings/boys-and-girls-speak-out_wda100425.html;

^{xiii} NSPCC Cymru/Wales runs service centres in Cardiff, Prestatyn and Swansea, which provide direct services to children and families across Wales. Details of the services provided by each centre are available at: http://www.nspcc.org.uk/what-we-do/NSPCC-in-your-area/cymru-wales/services/services-in-your-area_wda84178.html

^{xiv} For more information on the Protect and Respect Service see: http://www.nspcc.org.uk/what-we-do/the-work-we-do/priorities-and-programmes/sexual-abuse/protect-respect/protect-respect_wda93138.html

^{xv} The programme is based on research by Humphrey et al (2006) that demonstrated the benefits for children and mothers of talking to each other about the abuse. Humphreys, C., Mullender, A., Thiara, R., & Skamballis, A. (2006). *Talking to my Mum: Developing Communication Between Mothers and Children in the Aftermath of Domestic Violence*. Journal of Social Work, 6: 55-63. See also: Buckley, H., Holt, S. and Whelan, S. (2007). *Listen to Me! Children's Experiences of Domestic Violence*, Child Abuse Review.16:5, 296-213. Sabourin, S (2009). Early Exposure to Violence, Domestic Violence, Attachment Representations, and Marital Adjustment, Personal Relationships, 16:3. 65–384.

^{xvi} The NSPCC Evaluation Department has presented findings each year in an interim report, the Final Evaluation Report is due to be published in autumn 2014. Findings are currently being analysed. NSPCC Cymru/Wales will ensure that Welsh Government and the Communities, Equalities and Local Government Committee receive a copy and briefing on the findings.

^{xvii} McManus, E., Belton, E., Barnard, M., Cotmore, R., and Taylor, J., (2013). *Recovering from Domestic Abuse, Strengthening the Mother-Child Relationship: Mother's and Children's Perspectives of a New Intervention*. Childcare in Practice: 19:3, 291,310.

^{xviii} Scott, K. & Lishak, V. (2012). *Intervention for Maltreating Fathers: Statistically and Clinically Significant Change*. Child Abuse and Neglect, 36:9.

^{xix} The evaluation of CDSC compares fathers' behaviour towards their children and partners before and after the programme and assess the effects of any changes on their wellbeing. The evaluation did not include a comparison group, so further research is required to be confident that the improvements in outcomes are a direct result of fathers participating in the programme. For full interim findings see: McConnell, M. Barnard, M., Holdsworth, T. and Taylor, J. (2014). *Caring Dads: Safer Children. Interim Evaluation Report*. London: National Society for the Prevention of Cruelty to Children. Available at: http://www.nspcc.org.uk/Inform/research/findings/evaluation/caring-dads_wda101255.html

^{xx} FGM is usually carried out on girls between infancy and 15 years of age, with the majority of cases occurring between the 5 and 8 years of age (HM Government, 2011). Because of the hidden nature of the crime, it is difficult to estimate FGM's prevalence, but a study based on 2001 census data in England and Wales estimated that 23,000 girls under the age of 15 years could be at risk of FGM each year and nearly 66,000 women are living with its consequences (Dorkenoo et al, 2007). FGM could be even more prevalent than these figures suggest due to population growth and immigration from practicing countries since 2001 (HM Government, 2011) : http://www.nspcc.org.uk/Inform/resourcesforprofessionals/minorityethnic/female-genital-mutilation_wda96841.html

^{xxi} Anyone who is worried about a child being or has been a victim of FGM can contact **0800 028 3550** for information and support.

^{xxii} Survey available at: <http://www.homeofficesurveys.homeoffice.gov.uk/s/116305XBMTM>

^{xxiii} NSPCC Cymru/Wales set out its key calls in this area in its response to the White Paper Consultation on 'legislation end violence against women and domestic abuse (Wales)' in February 2013 <http://www.nspcc.org.uk/Inform/policyandpublicaffairs/wales/wales-policywda92935.html> ; and similar calls were made as part of the Violence Against Women Action Group, of which we are a member <http://walesvawgroup.com>.

^{xxiv} Consultation on the Independent Review of Assessment and Curriculum: http://www.nspcc.org.uk/Inform/policyandpublicaffairs/wales/wales-policy_wda92935.html

^{xxv} PSE is currently not mandatory but left to the discretion of each individual school (Section 101 (1) of the Education Act 2002).

^{xxvi} NSPCC Cymru/Wales, Barnardos Cymru and Welsh Women's Aid have developed a joint briefing paper calling for clarity about how healthy relationships provision will be delivered

^{xxvii} Childline uses a wide variety of concern categories in which they use to reflect the issues children and young people are facing today. These concern categories are applied to counselling sessions in order to capture the concerns and issues that prompt children and young people to make use of the service. ChildLine has begun coding the calls about relationship abuse in a way to try to tease out the concerns of young people in a clearer way. ChildLine is therefore now coding and reporting on the emotions the young person is expressing to help us capture the impact on the young person. ChildLine Statistics: Overview of Main Concerns (2012/2013).

^{xxviii} Renold, E (2012) *Boys and Girls Speak Out, a qualitative study of children's gender and sexual cultures*. Cardiff: Cardiff University, NSPCC & Office of the Children's Commissioner for Wales. See also: Renold, E (2006). *'They Won't Let Us Play Unless you're Going Out with One of Them': Girls, Boys and Butler's 'heterosexual matrix' in the Primary Years*, British Journal of Sociology of Education; Renold, E. (2005). *Girls, Boys and Junior Sexualities: Exploring Children's Gender and Sexual Relations in the Primary School*. London: Routledge Falmer.

^{xxix} Durlak, J., Weissberg, R., Dymnicki, A., Taylor, R., Schellinger, K. (2011). *The Impact of Enhancing Student's Social and Emotional Learning: A Meta-Analysis of School-Based Universal Interventions*. Child Development 82:1, 405-432; Payton, J. Weissberg, R.P., Durlak, J.A., Dymnicki, A.B., Taylor, R.D., Schellinger, K.B., & Pachan, M. (2008). *The Positive Impact of Social and Emotional Learning for Kindergarten to Eighth Grade Students: Findings from Three Scientific Reviews*. Chicago, IL: Collaborative for Academic, Social and Emotional learning.

- ^{xxx} McElearney, A., Scott, J., Stephenson, P., Tracey, A., Corry, D. (2011). *Keeping Safe: The Views of Principals, Teachers and other School Staff in Relation to Teaching 'Keeping Safe' messages in Primary Schools In Northern Ireland*. Northern Ireland: National Society for the Prevention of Cruelty to Children.
- ^{xxxi} Wood, M., Barter, C., & Berridge, D. (2011). *Standing on my own two feet': disadvantaged teenagers, intimate partner violence and coercive control*. London: National Society for the Prevention of Cruelty to Children.
- ^{xxxii} Holford, N., Renold, E., and Huuki, T., (2013). *What (Else) Can a Kiss Do?: Theorizing the Power Plays in Young Children's Sexual Cultures*. *Sexualities* 16(5-6) pp. 710–729. Ringrose, J. et al. (2012). A Qualitative Study of Children, Young People and "Sexting". London: National Society for the Protection of Children. Available at: http://www.nspcc.org.uk/Inform/resourcesforprofessionals/sexualabuse/sexting-research_wda89260.html
- ^{xxxiii} Renold, E (2012) *Boys and Girls Speak Out, a qualitative study of children's gender and sexual cultures*. Cardiff: Cardiff University, NSPCC & Office of the Children's Commissioner for Wales http://www.nspcc.org.uk/Inform/research/findings/boys-and-girls-speak-out_wda100425.html; The research involved 125 children and young people from five secondary schools and three primary schools in Wales. As part of the research, most children and young people reported struggling to live with gender stereotypes and "everyday sexism", and experiencing verbal sexual and gender-based harassment. This is supported by a series of recent studies showing that patterns of coercion, control, harassment and violence are not confined to adults and older teens; they are increasingly present in the lives of pre-teen children.
- ^{xxxiv} NSPCC (2014). *Written evidence to the Education Select Committee inquiry into Personal, Social, Health and Economic education (PSHE) and Sex and Relationships Education (SRE) in schools*. (June 2014). London: National Society for the Prevention of Cruelty to Children.
- ^{xxxv} National Assembly for Wales (2014). Statement: Introduction of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill, Minister for Local Government, Lesley Griffiths AM. Cardiff: The Record. Available at: http://www.assemblywales.org/docs/rop_xml/140701_plenary_bilingual.xml#157765
- ^{xxxvi} NSPCC Cymru/Wales, Barnardos Cymru and Welsh Women's Aid have developed a joint briefing paper calling for clarity about how healthy relationships provision will be delivered/
- ^{xxxvii} Thatcher, C. *You've Given Us a Voice Now Listen*. Cardiff: Welsh Women's Aid; Stanley, N. et al. (2010) *Children's experiences of domestic violence: Developing an integrated response from police and Child Protection Services*. UCLAN/NSPCC.
- ^{xxxviii} Radford, L., Aitkin, R., Miller, P., Ellis, J., Roberts, J., and Firkc, A. (2011). *Meeting the Needs of Children living with domestic abuse in London*. London: Refuge/NSPCC research project, Funded by the City Bridge Trust.
- ^{xxxix} All Wales Child Protection Procedures Review Group (2011). All Wales Practice Guidance: Safeguarding Children and Young People Affected by Domestic Abuse: <http://www.rctcbc.gov.uk/en/relateddocuments/publications/news/domestic-abuse-protocol---final-27-04-11---pdf.pdf>
- ^{xl} Jutte, S., Bentley, H., Miller, P., Jetha, N. (2014). *How Safe are Our Children?* London: National Society for the Prevention of Cruelty to Children. Available at: http://www.nspcc.org.uk/Inform/research/findings/how-safe/how-safe-2014_wda101852.html
- ^{xli} Robinson, A., Brisbane, A., Farrar, F., Hardy, P., Jones, B., Pickles, J., Shepherd, J. (2012). *The Welsh Government's proposed 'Ending Violence Against Women and Domestic Abuse (Wales) Bill': Recommendations from the Task and Finish Group*. Cardiff: Welsh Government. Available at: [http://www.cardiff.ac.uk/socsi/resources/Robinson%20et%20al%20\(2012\)%20Task%20and%20Finish%20Group%20Report.pdf](http://www.cardiff.ac.uk/socsi/resources/Robinson%20et%20al%20(2012)%20Task%20and%20Finish%20Group%20Report.pdf)



Cynghrair o sefydliadau sy'n ceisio diwygio'r gyfraith i rhoi'r un amddiffyniad i blant ag sydd gan oedolion rhag ymosodiad a hyrwyddo disgyblaeth gadarnhaol di-drais

An alliance of organisations seeking legal reform to give children the same protection under the law on assault as adults and promoting positive non-violent discipline

Written evidence from 'Sdim Curo Plant/Children are Unbeatable! Cymru to:

National Assembly for Wales

Communities, Equality and Local Government Committee

**Stage 1 consultation on the general principles of the
Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill**

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Grŵp Strategaeth y Gynghrair / Alliance Strategy Group:

Achub y Plant/Save the Children, Barnardo's Cymru, Action for Children/Gweithredu dros blant, NSPCC Cymru, Plant yng Nghymru/Children in Wales, Cymorth i Fenywod Cymru/Welsh Women's Aid, Homestart UK, Rhwydwaith yr Eglwysi yn Erbyn Trais/Churches Network for Non-Violence

Written evidence from 'Sdim Curo Plant/CAU! Cymru to:

Communities, Equality and Local Government Committee
Stage 1 consultation on the general principles of the
Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill



Introduction

Our written evidence to the Committee's Stage 1 inquiry focuses on a key omission from the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill (the Bill). One crucial measure for combating domestic abuse and inter-personal violence – prohibiting and eliminating the physical punishment of children – has been overlooked. Without the inclusion of a provision to remove the 'reasonable punishment' defence available in cases of assaults against children (Children Act 2004, Section 58) we believe that the Bill can only have limited success in achieving its aims. Not only is this a missing key component of any strategy to reduce violence and domestic abuse, but both Welsh Government and the National Assembly have for over a decade committed to such a reform. In addition, the international human rights pressure to introduce this measure is considerable.

From our reading of the White Paper preceding this legislation as well as the Explanatory Memorandum to the Bill it would seem that while the development and delivery of high quality services to deal with the consequences of Gender-based Violence, Domestic Abuse and Sexual Violence may be supported by the legislation, it fails on several counts to ensure a progressive lowering of demand for such services and responses by grasping the nettle on this key issue of equality and human rights. Furthermore, it continues to promote a confused and incomplete picture of the reality of interpersonal violence and structural inequalities which affect children in general, as well as girls and women.

To include such a measure would have been entirely consistent with the Welsh Government's 'people approach' to policy development and service delivery which was referred to frequently during consideration of the Social Services and Well-being (Wales) Bill before it was enacted.

Although the risk of harm for children who *witness* violence between adults is mentioned, we are extremely disappointed that Welsh Government appears to have dropped its earlier definition of domestic abuse as something that children also *experience* themselves. Without addressing the issue of the inequality in protection from assault that currently exists and going to the root of the problem, Wales cannot hope to tackle domestic abuse, gender-based violence and sexual violence effectively.

Children are Unbeatable! Cymru is an alliance of organisations united in calling for this change in order to give children the same level of protection as currently available to adults. Our supporters include the leading parenting, children's rights and child protection organisations as well as organisations working to end violence against women. The campaign also has the support of the Archbishop of Wales, Children's Commissioner Keith Towler, the Rt Hon Rhodri Morgan, several Christian denominations, Muslim leaders and AMs and MPs from all political parties.

Our aim, which has the support of the 150+ organisations working with children and families throughout Wales who are part of this campaign, is to secure legal reform to give children equal protection under the law on assault as soon as possible. This should be accompanied by public education and support for families. Experience from other countries¹ has shown that a change in the law is essential in order to have the necessary impact. It cannot be achieved through positive parenting education alone. The current legal position is 'bad law' that does not reflect children's human rights, gives mixed messages to parents and to children; it undermines work to reduce domestic abuse and places vulnerable children at risk.

The Wales and UK-wide organisations working to end violence against women² strongly support removal of the 'reasonable punishment' defence because they recognise it as an equality and human rights issue for children and because of the obvious relationships between physical punishment and domestic abuse. They recognise that prohibiting and eliminating physical punishment is an essential preventive strategy for ending the social acceptance of violence in inter-personal relationships.

We were for many years encouraged that Welsh Ministers had been completely supportive of this aim and indeed adopted it as their own. Welsh Government has at times in the past funded the work of CAU! Cymru and Ministers voted to express regret at the lack of progress on this issue at Westminster in 2004. The National Assembly has twice voted by large cross-party majorities in support of reforming the law. Yet children in Wales are still waiting.

The complete removal of the defence of 'reasonable punishment' under section 58 of the Children Act 2004 is supported by leading agencies in the domestic abuse field who understand that the legality of physical punishment undermines efforts to end domestic violence because:

- It breaches the universal human right to protection from violence
- It teaches children that violence is acceptable
- It weakens the principle of 'zero tolerance' of violence in the home

¹ A summary of research in other countries is available in a separate briefing document which is available here: <http://www.childrenareunbeatablecymru.org.uk/wp-content/uploads/2014/03/International-experience-of-introducing-a-smacking-ban.pdf>

² See Annex 1 for a list of domestic abuse organisations who have formally signed-up to the CAU! Campaign.

Section 1: Why this Bill is the right vehicle for reform

In her concluding statement during the Stage 3 debate on the Social Services and Well-being (Wales) Bill, the Deputy Minister for Social Services, Gwenda Thomas AM stated that there would be opportunities to examine this issue in forthcoming legislation in this Assembly term. As previously mentioned, the National Assembly for Wales has already voted twice for a ban on physical punishment by large cross-party majorities (in 2004 and 2011). This Bill would appear to be the ideal opportunity to take this forward.

There has been well over a decade of support from the Assembly and successive Welsh Governments³, with the Government including information on its policy stance in public statements, consultation documents and publications for many years. Parenting materials have been produced and relevant programmes with children and families funded. The Welsh Government made an explicit promise to the UN Committee on the Rights of the Child, and subsequently to Wales's children and young people when the UK was examined on progress towards implementation of the United Nations Convention on the Rights of the Child (UNCRC). As outlined in Section 5 below, achieving removal of the defence was a well-publicised Welsh Government policy for so long that the claim to have 'no mandate' sometimes made by current Ministers is astounding.

The 'reasonable punishment' defence is an unjustifiable anomaly, in conflict with equality and human rights. It is an anomaly also based on an outdated and anachronistic understanding of the relationships of 'ownership', power and control between children and adults. The defence is contained in Section 58 of the Children Act 2004 – not in criminal justice legislation.

As with any Welsh legislation, the possibility of legal challenge including referral to the Supreme Court is present. However, recent political developments and Supreme Court judgments on earlier Bills suggest that the likelihood of this occurring is now far lower. In any event any delay would not be prolonged and given the legal advice from several different sources is unlikely to succeed. Since the GVDA&SV Bill as introduced has a focus on placing existing policy on a statutory basis, there would be no need to delay the positive contribution the Bill would make to the addressing gender-based violence, domestic abuse and sexual violence in Wales.

Experience from the passage of the Social Services and Well-being (Wales) Act confirms that the necessary amendment to remove the defence of 'reasonable punishment' in relation to assaults on children in Wales is clear, concise and self-contained. It would not have an adverse impact on the successful introduction of other improvements contained elsewhere in the Bill; it would

³ A chronology of the Assembly and Welsh Government support can be found in a separate CAU Cymru briefing which can be found here: <http://www.childrenareunbeatablecymru.org.uk/wp-content/uploads/2014/03/Wales-Devolution-and-Equal-Protection.pdf>

not delay their implementation and in the long-term would add considerably to their effectiveness.

The Bill as introduced and the Explanatory Memorandum

The Explanatory Memorandum states that the Bill's overall intention (page 4) is to create a stronger and more consistent focus on prevention of violence between family members (including parents and children), the protection of victims and support for all affected. The Bill is concerned with ending and dealing with the impacts of gender-based violence which has its roots in current and historical societal imbalances in power and control. It seeks to end violence within the family but ignores the fact that physical punishment of children is the only form of inter-personal violence which remains lawful.

Paragraph 6 on page 8 of the Explanatory Memorandum says that the Bill is intended to provide a "strategic focus" and to "ensure consistent consideration of preventive, protective and supportive mechanisms." While hitting children remains legal there can be no consistency of approach in either prevention or protection from violence and abuse.

The Explanatory Memorandum says a leadership gap on gender violence was identified by both the Safer Lives and the Robinson reports (para 16 quotes Robinson: "...Leadership is required because many of the issues are sensitive, disturbing and 'below the radar' of both frontline professionals and most citizens... Leadership is required because the Welsh Government's commitment in this area, as indicated by this legislative initiative, must lead to an effective and sustainable programme of change.").

These observations are equally applicable to the physical punishment of children. Prohibiting violence is absolutely dependent on leadership and any further delay does not reflect well on Welsh Government or the Assembly. No country has prohibited the physical punishment of children on the back of public opinion. If Welsh Government is brave enough to challenge public attitudes in relation to the human rights of adults, it is difficult to see why they cannot demonstrate the same determination in relation to the human rights, welfare and protection of children. There cannot be an effective programme of change if domestic abuse of any kind continues to be legitimised.

Paragraph 33 of the Explanatory Memorandum states that the Welsh Government's principal aim for this Bill is for it to "reduce rates of violence", by awareness-raising and other measures. Section 5 below outlines research evidence which indicates that rates of violence to children do visibly reduce following a smacking ban.

Paragraph 40 makes clear that "domestic abuse" includes violence between "**family members**" (our emphasis). This must include between parent and child, so there can be no justification for

the Bill allowing the existence of section 58 in Wales.

Finally, paragraph 55 of the Explanatory Memorandum refers to the measures the Welsh Government is taking in relation to schools. Schooling is important but does not start until a child has already developed an understanding of what is acceptable from patterns of behaviour experienced at home. It is universally recognised that parents/carers are children's primary role models and most influential educators and the social acceptability of violence must be tackled in the home as well as in schools.

Section 2: A human rights imperative⁴

Protection from assault is a universal human right

Wales was the first country in the UK to accept that the policy definition of domestic abuse should include violence inflicted on children in the family, acknowledging that we cannot effectively challenge domestic violence while maintaining the legality of assaulting children in the family. The definition now used has changed, despite the introduction of the Rights of Children and Young Person's (Wales) Measure (the Measure) which places a duty on Ministers to have 'due regard' to the UNCRC. The Measure was adopted unanimously by the National Assembly and is now fully in force. It requires respect for the UN Convention on the Rights of the Child and the Committee's recommendations.

Due regard for the UNCRC in this area of work, as required by the Measure, implies an explicit commitment to fully protect children from all forms of violence in the family home (Article 19 of the Convention) as confirmed by the UN Committee on the Rights of the Child.

In Section 3 below we describe a number of research studies which demonstrate strong associations between the "ordinary" physical punishment of children and aggressive, violent and coercive behaviour both in childhood and in later life. This evidence is ultimately irrelevant given the overwhelming human rights case for a law prohibiting physical punishment. The UK has been told repeatedly by international human rights treaty bodies that it must remove the defence of 'reasonable punishment.'⁵ We do not need research studies on the effectiveness of torture or the impact of wife-beating on relationships to ban these things: they are a part of human rights.

⁴ Full details of the Human Rights pressure on Wales as part of the UK to remove the 'reasonable punishment' defence can be found in a separate briefing here: <http://www.childrenareunbeatablecymru.org.uk/wp-content/uploads/2014/03/Why-Wales-should-ban-smacking-now-International-Human-Rights-pressure-and-the-Rights-of-Children-and-Young-Persons-Wales-Measure.pdf>

⁵ These include: The Committee on the Rights of the Child (three times: 1995, 2002 and 2008); The Committee on Economic, Social and Cultural Rights (twice: 2002 and 2009); The Committee on the Elimination of Discrimination against Women (twice: 2008 and 2013); The European Committee of Social Rights (twice: 2005 and 2012). In addition, the UK has received repeated recommendations from other states to prohibit all corporal punishment in the Universal Periodic Review by the Human Rights Council in Geneva (twice: 2008 and 2012)

Some have argued that children are different to adults because they are not yet competent and in need of parental guidance and control. But older people with dementia may have to be managed and controlled by their carers in the same way as children; yet no-one says that the carer therefore has a right to hit them. This is because we recognise that, however diminished his or her capacities, an older person still has human rights.

It can be difficult for some to recognise that physical punishment is a violation of rights, and a bad way to raise children because it has for so long been commonly used by parents and condoned by society – much in the same way as domestic abuse used to be tolerated in the past as ‘a private matter’. Children are smacked by those they love best in their early and most formative years and naturally accept this as normal and correct behaviour. Many will say they deserved it.

The overwhelming majority of parents who have physically punished their children have done so because they thought it was the right thing to do, not in order to cause them pain or harm. Similar reasons – citing cultural or religious beliefs – have been given in the past for practices which are now considered abhorrent (such as Female Genital Mutilation). If it were simply a matter of intellect then physical punishment would have been outlawed decades ago. Many of those who support CAU! Cymru say that their attitudes have changed with the times and with experience – not least because a ban is an obvious preventive measure to combat violence between adults.

Removing the defence, and thus giving children equal protection under the law on assault is an immediate obligation under the UNCRC and other human rights instruments accepted by the UK Government. Removal has been recommended repeatedly to the UK Government by UN human rights monitoring bodies (including three times by the Committee on the Rights of the Child and twice by the Committee on the Elimination of Discrimination against Women (CEDAW) – the UN human rights body most concerned with violence against women and girls).

These international human rights bodies are unequivocal in stating that children have the same right to legal protection from assault as adults. The vulnerability of children makes it even more vital that the law protects them, making the existing anomaly of giving them less legal protection both disturbing and absurd.

CEDAW - which monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women - has recognised that the Convention requires governments to protect women against violence of any kind occurring within the family and other areas of social life, and that full implementation of the Convention requires States to eliminate all forms of violence against women. In its concluding observations on the UK's report in 2008, the Committee noted with concern “that corporal punishment is lawful in the home and constitutes a form of violence against children, including the girl child”. The Committee recommended “that the State party include in its legislation the prohibition of corporal punishment of children in the home”. In 2013 it repeated its concern that corporal punishment was still lawful in the home,

and urged the UK “to revise its legislation to prohibit corporal punishment of children in the home”.

The UNCRC requires states to protect children from “all forms of physical or mental violence” while in the care of parents or others (article 19). The Committee on the Rights of the Child – the monitoring body for the UNCRC – consistently interprets the Convention as requiring prohibition of all physical punishment in the family and all other settings, linked to awareness-raising and public education. In 2006, the Committee adopted General Comment No.8 on the right of the child to protection from physical punishment and other cruel or degrading forms of punishment: addressing corporal punishment of children is, the Committee states, “a key strategy for reducing and preventing all forms of violence in societies”.

The current Chair of the UN Committee on the Rights of the Child, Kirsten Sandberg, visited the National Assembly in November 2014 and presented this information to the Assembly All-Party Group on Children and Young People. Her bewilderment at why progress on this issue in Wales had stalled was clear.

Section 3: Child protection

Removing this defence, which only applies in cases of assaults against children, would address an outdated anomaly. It would not create a new offence but would extend to children the protection the law already gives other individuals, giving children *equal* protection – no more, no less.

Section 58 undermines child protection because:

- Research shows that, because it is ineffective in changing long-term behaviour, some parents escalate from ‘mild’ smacking to serious assaults;
- It permits an arbitrary level of violence which invades children’s physical integrity, making it a potential pathway to more serious physical or sexual abuse;
- professionals working with families are unable to deliver clear messages that hitting and hurting children is not allowed;
- children do not report something they are told is permitted and justified;
- those witnessing violence to children have little confidence in either intervening themselves or reporting it to the authorities;
- parents are receiving confusing messages about the legitimacy of hurting their children;
- Section 58 fails to protect children from painful, dangerous, humiliating or frequent assaults and sends them the message that hitting people is acceptable;
- The ‘reasonable punishment’ defence undermines initiatives to reduce domestic abuse and levels of violence in general because it is inconsistent with the message that it is

never acceptable to try and control another person's behaviour by hitting or hurting them.

Some may argue that a smack does not constitute child abuse, but physical punishment does play a central role in child abuse. With the law as it currently stands child protection professionals are unable to deliver clear messages to families that hurting children is not allowed.

Scaremongering about the 'criminalisation' of good parents

The main purpose of changing the law is to prevent children being physically punished in the first place, not to prosecute parents after they've hurt their children. Parents have freedom to raise children their own way, but within limits. Banning smacking does not add to the problems of vulnerable families.

Parents don't enjoy smacking and tend only to use it when they are stressed and angry.⁶ When parents stop smacking they invariably find family life and children's behaviour gets better and they are happy to have taken this step.⁷ Thus a ban is as much of an incentive – a “nudge” measure – as it is a deterrent. Organisations delivering parenting support in Wales confirm that changing from negative to positive parenting creates a win/win situation. Parents set clearer boundaries, children behave better, family relationships improve and the need to punish diminishes.

Experience from the 39 countries that have already made the change shows that public attitudes and practice quickly change after law reform. No country that has introduced such legislation has repealed it; even when there have been changes of government. We know from the experience of countries such as Sweden, Finland, Germany and New Zealand – that the likelihood of adverse consequences from a so-called ‘smacking ban’ as this reform is sometimes described, is virtually nil. On the contrary, following a ban we can be confident that Wales will be a place where children are safer, happier, better behaved, more able to fulfil their potential and less likely to be involved in domestic violence in adulthood or to believe that they ‘deserve’ abuse from a partner.

Making this change would not mean that every smack would lead to a prosecution nor that good parents are criminalised. The ‘significant harm’ threshold that child protection professionals, including the police, use would not change. In most cases parenting support or support with other challenges the family is facing would be what is needed; but in more serious

⁶ Gershoff, E. T. (2002), “Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review”, *Psychological Bulletin*, 128(4), 539-579;

⁷ See above, and also Beauchaine T. P. et al (2005), “Mediators, moderators, and predictors of 1-year outcomes among children treated for early-onset conduct problems: a latent growth curve analysis”, *Journal of Consulting and Clinical Psychology* 73: 371-88, a study of 500 families trained away from the use of physical punishment which exactly correlated with an improvement in the children's behaviour.

cases professionals would be able to use the law when necessary to fully protect vulnerable children. It is scaremongering to suggest parents would be dragged through the criminal justice system for minor smacks, since both CPS and childcare services have confirmed that this would not be the case⁸.

Police and social workers already receive reports from those concerned about children being hit and are accustomed to intervening appropriately, aiming to support parents and children without resorting to legal intervention unless it is in the best interests of the child or children. Removal of the 'reasonable punishment' defence could only help this process. Removing the 'reasonable punishment' defence would not lead to the prosecution of parents for trivial smacks unless this was considered to be both in the public interest and in the best interest of the child concerned. Again we would stress that there would be no change in the threshold of 'significant harm' for formal social work investigations. But the law would be doing all it could by sending into the family home the clear message that it is as illegal and unacceptable to hit a child as to hit anyone else.

Section 58 fails to protect children from painful, dangerous, humiliating or frequent assaults and, by permitting an invasion of children's physical integrity, creates a potential pathway to sexual abuse. Those witnessing (or experiencing) physical punishment are often reluctant to intervene or complain. Following reform, members of the public will feel more confident about reporting incidents they are concerned about. Parents who feel that they are about to 'lose it' will also know that hitting out is against the law.

Section 4: Links between physical punishment, domestic abuse and other violence

Physical punishment teaches children that violence is acceptable

Whenever children are physically punished, they receive two clear messages. The first is that hitting someone is a legitimate way to exert control over them, sort out a conflict or express displeasure. The second message is that the recipients of physical punishment deserve such treatment. Both messages can have a toxic effect on the growing minds of children and contribute to the social acceptance of violence in adult life.

⁸ In evidence to the Joint Parliamentary Committee on Human Rights on May 25 2005 the then Director of Public Prosecutions did not rule out the possibility that a parent might be taken to court for a mild smack, but stressed that this might be appropriate only in very rare circumstances. In a joint statement in 2008 the Association of Directors of Children's Services, BASW, BASPCAN, Unite – Community Practitioners' and Health Visitors' Association; NSPCC, Parenting UK and Royal Colleges of paediatrics and nursing confirmed that the threshold of "significant harm" for social work intervention in families at risk would not change following a ban on smacking. A similar joint statement has recently been signed by ADSS Cymru, BASW Cymru and a number of Local Safeguarding Boards in Wales.

Even where there is legislation much work has to be done to change social attitudes. For example, government research found that around two in ten adults believe it is sometimes acceptable for a man to hit or slap his wife or girlfriend because of what she is wearing. A survey of more than 2,000 young people aged 14-21 found nearly half of the young men and a third of the young women could envisage circumstances when they believed it would be acceptable for a man to hit a female partner, and one in eight of the young men thought that “nagging” was a justification for violence. An NSPCC survey of young people found that almost half (43 per cent) of teenage girls believe that it is acceptable for a boyfriend to be aggressive towards his partner.⁹

Perpetrators of domestic violence often seek to justify their behaviour with reference to victims’ behaviour, using language which is strongly redolent of physical punishment – “it was just a smack”, “she was asking for a slapping”. Such views do not appear out of the blue. Research has shown that there may be an association between physical punishment in childhood and partner-abuse in later life (see Section 5 below). The acceptability of punitive violence is internalised from an early age and is deeply rooted in our society.

Measures to change the social acceptability of interpersonal violence – for example by providing healthy relationships education in schools - 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.

Use of physical punishment weakens the principle of zero tolerance of violence in the home

Professionals working in domestic violence have expressed deep frustration with the smacking law; Women’s Aid and Refuge pointed out the irony of introducing a law which makes common assault between adults an arrestable offence in the same year that introduced the defence of ‘reasonable punishment’ for common assaults against children, and of having a law which acknowledges the harm to children of witnessing domestic violence while denying them protection from experiencing it. The vast majority of services in the field of domestic and sexual violence do not just support the aims of the Children are Unbeatable! Alliance, they also practice what they preach by maintaining a true zero tolerance policy, banning all forms of violence in refuges, including the physical punishment of children.

It is self-evident that attitudes to violence begin in the home and are influenced by treatment in pre-school years. This work does not start at the school gates. We know that parents act as role models – parents who smoke are more likely to have children who smoke, parents who have gone to prison are more likely to have children who commit offences and so forth – and it is therefore imperative that measures are taken to stop parents hitting their children. Whatever the disciplinary intention, the message physical punishment carries is overwhelming - that hitting a loved-one in order to punish or control them is acceptable behaviour. This message is

⁹ Alarm at acceptance of abuse by teenage girls, 2005
<http://www.theguardian.com/uk/2005/mar/21/ukcrime.children>

transmitted to children at an early stage of their development and is internalised and unexamined.

Physical punishment undermines gender equality in family life and wider society

“Gender ideologies that dictate that men should control women or allow for men to physically control their partners or children are forms of gender-based structural violence.”

Rashida Manjoo, UN Special Rapporteur on Violence Against Women

Ending all violence in the family home is a key element of ensuring equality in family life. The UN Committee on the Elimination of Discrimination Against Women’s General Recommendation No. 19 on violence against women (1992)¹⁰ makes it clear that gender-based violence constitutes discrimination and impairs or nullifies the fulfilment of women’s rights including the right to equality in the family. Violence against women and physical punishment of children in the family home are closely linked and they often coexist.

General Recommendation No. 19 highlights that traditional attitudes by which women are regarded as subordinate to men perpetuate family violence. Ending the legality of all violence in the family home is an essential part of challenging these attitudes.

Physical punishment of children and violence against women arise from the same hierarchical and patriarchal power structures, which uphold the concept of girls’ and women’s inferiority to men and children’s inferiority to adults. The legality of physical punishment of children perpetuates these power structures.

Unless children are given equal protection, the perverse situation will continue with the same adults who are prevented in law from inflicting violence on their partners still able to inflict it on their children with impunity. The Bill avoids the issue by acknowledging only the harm done to children by witnessing violence in the home while ignoring the violence inflicted directly on them in the guise of ‘discipline’. From a human rights perspective this is indefensible. A home where it is lawful to punish children by hitting and hurting them can never be completely safe or violence-free.

Reducing violence and abuse within the domestic sphere, as well as gender-based violence, can only be achieved if the concept that all family members are equal holders of human rights - including the right to freedom from being hit, hurt or abused - is reflected in legislation. If physical punishment of children remains lawful, the idea that it is acceptable for those with perceived higher social status to use violence to control and regulate the behaviour of those perceived to be subservient remains enshrined in law.

¹⁰ <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>

This weakens the protection of women as well as children. Countries who have not prohibited physical punishment are in effect allowing the power structure which is the basis of domestic violence against women to go unchallenged.

Section 5: Implementation

No reason for further delay

There has been substantial public consultation on this issue in Wales and across the UK already. Previous Welsh Governments' intention to legislate has been in the public domain for over a decade and throughout that time parenting and public education messages have reflected that fact. Those delivering parenting programmes, as well as parents and professionals, have been expecting the change for some time.

Welsh Government first formally expressed its support for the UN Committee on the Rights of the Child's recommendation that all physical punishment should be prohibited in law back in 2002¹¹ and until 2011 there was explicit support for legislative reform. The only barrier appeared to be a lack of legislative powers.

In the intervening years Children Are Unbeatable! Wales received funding from the Welsh Government, the National Assembly voted by a large majority to express its formal regret that the UK had failed to legislate to ban physical punishment, a number of Ministerial statements were made on the Welsh commitment to ban and Assembly Members visited Sweden to explore the effect of its ban (passed 35 years ago). In 2004 Welsh Assembly Government issued *Rights to Action* setting out its proposals for policy and provision for children and young people in Wales, including full prohibition:

"The Assembly Government believes that the current legal defence of 'reasonable chastisement' should be ended. We wish to encourage respect for children's rights to human dignity and nonviolent forms of discipline, including through public education programmes. We have made representations to the UK Government about this...Children who are smacked are more likely to believe that the strong get their own way and that violence is an acceptable manner of expressing a view or dealing with anger or frustration (our emphasis)."¹²

In 2005 funding was provided for the development of a bilingual tool kit for those working with parents to change attitudes and behaviour towards physical punishment and support parents in

¹¹ Cabinet Statement, *Supporting children and parents in Wales*, 23 October 2002.

¹² Framework for Partnership *Children and Young People: Rights to Action* Welsh Assembly Government, July 2004

finding alternative methods of managing children's behaviour¹³. The UK's 2008 report to the UN Committee on the Rights of the Child recorded that:

"The Welsh Assembly Government has already committed itself to supporting a ban on physical punishment of children and has funded publication of a booklet called *Help in Hand* given to all new parents that advises on positive ways of dealing with behaviour and avoiding smacking."¹⁴

In 2009 the Welsh Government launched its five year action plan for children and young people, *Getting it Right*, of which Priority 10 (of 16) is to "make physical punishment of children and young people illegal in all situations"¹⁵.

In 2011, following confirmation by the First Minister that the Assembly now has power to repeal section 58 and thus 'ban smacking', the National Assembly voted by a majority of 24 to 15 to urge the Welsh Government to introduce this legislation (Government ministers were required to abstain in this vote).¹⁶

A great deal of preparatory work has already been done in Wales and children should not have to wait now that Wales has the power to legislate. It is hard to imagine a similar argument for delay being used in relation to protecting women from assault – any suggestion that law reform needed to wait until there was adequate provision of programmes for perpetrators, services for alcohol or substance misuse or full-employment achieved would have been greeted with derision.

Section 6: Evidence from research

Research on physical punishment and domestic violence

Research evidence shows clear associations between physical punishment in childhood and the perpetration of violence against partners in later life. In 2002 Elizabeth Gershoff conducted a meta-analysis of 88 studies on the effect of "ordinary" physical punishment, specifically excluding studies on "abuse" (i.e. assaults requiring state intervention)¹⁷ In 2008 the findings

¹³ The toolkit is still in use, see <http://www.helpathandtoolkit.info/>

¹⁴ UN Committee on the Rights of the Child: Third and fourth periodic reports of the United Kingdom of Great Britain and Northern Ireland, 25 February 2008, CRC/C/GBR/4

¹⁵ *Getting it right 2009 United Nations Convention on the Rights of the Child A 5-year rolling Action Plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008*, November 2009, Welsh Assembly Government <http://wales.gov.uk/topics/childrenyoungpeople/publications/gettingitright2009/?lang=en>

¹⁶ National Assembly for Wales record of proceedings, October 19 2011

¹⁷ E. T. Gershoff (2002), *Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review*. Psychological Bulletin, 128(4), 539-579

were updated.¹⁸ The meta-analysis showed a strong consensus on physical punishment's many negative outcomes, including eroded parent-child relationships, weak internalisation of moral standards, increased child aggression, violence in later life and poor mental health. Twelve of the studies examined the relation of physical punishment to mental health problems of children, such as anxiety and depression, and eight examined its relationship to mental health problems in later life; without exception, these 20 studies revealed that physical punishment was associated with an increased probability of mental health problems. Thirteen studies investigated antisocial behaviour: in 12 of the 13 studies physical punishment was found to be associated with a higher probability of delinquent and anti-social behaviour. The same near unanimity (four out of five) was found for studies of the relation between experiencing physical punishment as a child and later adult criminal behaviour.

Aggression in childhood

Above all, the evidence shows that physical punishment is associated with increased aggression in children. All 27 studies on the topic included in Gershoff's meta-analysis found an association, now confirmed by numerous other studies. Studies which use a prospective design increasingly refute the idea that children who are more aggressive experience more physical punishment – research consistently suggests that experiencing physical punishment directly causes children's levels of aggression to increase.¹⁹ The reasons may include that aggression is a reflexive response to experiencing pain, that children copy their parents' behaviour and that children learn that violence is an appropriate method of getting what you want. Children in a New Zealand study described feeling aggressive after being smacked: *"like you want payback and revenge"* (nine year old boy); *"you hurt your sister, like you take it out on somebody else"* (13 year old boy).²⁰ Children in the UK said that after they have been smacked, children *"act naughty and start to hurt people"* (five year old girl) and that *"if they're very little, they might think it's right to smack and go off and smack somebody else"* (seven year old girl).²¹

Large-scale studies on this association include a study involving more than 1,000 mothers in the USA who were interviewed and observed when their children were one, three and four years old, which found that children who experienced physical punishment aged one were more likely to have both "internalising" and "externalising" behaviour problems aged three and four²² and a study in the USA of 2,461 children, which found that children who were "spanked" more than

¹⁸ E. T. Gershoff *Report on physical punishment in the United States: what research tells us about its effects on children* (2008) Center for Effective Discipline, Columbus, Ohio

¹⁹ Durrant, J. & Ensom, R. (2012), "Physical punishment of children: lessons from 20 years of research", *Canadian Medical Association Journal*, 6 February 2012

²⁰ Dobbs, T. (2005) *Insights: children & young people speak out about family discipline*, Save the Children New Zealand

²¹ Willow, C. & Hyder, T. (1998) *It Hurts You Inside: young children talk about smacking*, Save the Children & National Children's Bureau

²² Mulvaney, M. K. & Mebert, C.J. (2007) "Parental corporal punishment predicts behavior problems in early childhood", *Journal of Family Psychology*, 21(3): 389-397

twice in the previous month aged three were more likely to be more aggressive aged five (the study controlled for the children's level of aggression at age three).²³

Some studies have focused on children's aggression towards their peers. A study in the USA which examined how 106 three to six year-old children behaved in playgrounds found that children whose parents who used less "power assertive discipline" (including punishing, threatening and belittling the children) were more popular with other children and showed fewer disruptive playground behaviours, such as arguing and aggression.²⁴

Another US study of five to seven and nine to 10 year old children and their mothers found that children whose mothers used more "power assertive discipline" (such as physical punishment and threats) were less popular with their peers and were more likely to use "unfriendly methods", such as hitting another child, to resolve conflicts with their peers.²⁵ The effect continues into adolescence: a US study of 134 parents and children aged 10-15 found that children who were physically punished by their parents were more likely to approve of the use of violence in their peer relationships, to have been involved in a fight in the past year, to bully their peers and to have experienced violence from their peers in the last school term.²⁶

Children who experience physical punishment from their parents are more likely to be aggressive towards their parents, as confirmed by a US study of 1,023 couples with a child aged between three and 17. It found that 13% of the mothers who did not use physical punishment in the past year had been hit by their child that year, compared to 30% of those who had used physical punishment once or twice and 40% of those who had used it three or more times.²⁷

Violence in adult life

Physical punishment was associated with violence towards a partner as an adult in all five studies on the topic included in Gershoff's meta-analysis. All four studies on other forms of aggression in adulthood found that physical punishment is significantly associated with increased aggression in adulthood, and four of the five studies on corporal punishment and criminal and antisocial behaviour in adulthood found an association.

²³ Taylor, C. A. et al (2010) "Mothers' Spanking of 3-Year-Old Children and Subsequent Risk of Children's Aggressive Behavior", *Pediatrics* 125(5): 1057-1065

²⁴ Hart, C.H. et al (1992) "Maternal and paternal disciplinary styles: Relations with preschoolers' playground behavioral orientations and peer status", *Child Development*, 63(4): 879-892

²⁵ Hart, C.H. et al (1990) "Children's expectations of the outcomes of social strategies: Relations with sociometric status and maternal disciplinary styles", *Child Development*, 61(1): 127-137

²⁶ ²⁶ Ohene, S. et al (2006) "Parental Expectations, Physical Punishment, and Violence Among Adolescents Who Score Positive on a Psychosocial Screening Test in Primary Care", *Pediatrics* 117(2): 441-447

²⁷ Ulman, A. & Straus, M. A. (2003) "Violence by children against mothers in relation to violence between parents and corporal punishment by parents", *Journal of Comparative Family Studies* 34: 41-60

A major study involving men in Brazil, Chile, Croatia, India, Mexico and Rwanda found that those who had experienced violence, including physical punishment, during childhood, were more likely to perpetrate intimate partner violence, hold inequitable gender attitudes, be involved in fights outside the home, pay for sex and experience low self-esteem and depression, and were less likely to participate in domestic duties, communicate openly with their partners, attend pre-natal visits when their partner is pregnant and/or take paternity leave.²⁸

A study of 717 boys in Canada found that experience of harsh parental practices (being punished by being hit, slapped, scolded all the time or called names and feeling rejected by parents) contributed directly and significantly to the boys being perpetrators of “dating violence” at 16 and 17 years old.²⁹ A study of 608 respondents in the USA who were interviewed in 1982 at ages 12-19 and again ten years later found that those who had experienced “harsh physical discipline” were more likely to be violent towards a “romantic partner” as adults.³⁰

A study which used data from over 4,400 adults in the USA, who took part in a nationally representative survey of American heterosexual couples with and without children, found that the more often respondents – both men and women – had experienced physical punishment as teenagers, the more likely they were to physically assault their partners as adults and to approve of violence in adult relationships, such as slapping a partner’s face).³¹ Another study in the USA, involving 188 married couples without children, found that individuals who were physically punished during childhood were more controlling with their spouse, less able to take their spouse’s perspective and more likely to engage in physical and verbal aggression with their spouse. The authors suggest that this is because physical punishment both teaches children destructive problem-solving strategies – verbal and physical aggression – and hinders them learning essential problem-solving skills – taking others’ perspectives, demonstrating empathy and understanding how their behaviour affects others.³²

Other aspects of sexuality which place adults and young people at risk of violence and abuse

There are, of course, clear links between being physically punished as a child and being sexually excited by ‘disciplinary’ sex – indeed, according to research this appears to be a sexual orientation which is definitely created by childhood experiences rather than genetically

²⁸ Contreras, M. et al (2012), *Bridges to Adulthood: Understanding the Lifelong Influence of Men's Childhood Experiences of Violence*, Analyzing Data from the International Men and Gender Equality Survey, Washington DC: International Center for Research on Women (ICRW) and Rio de Janeiro: Instituto Promundo.

²⁹ Lavoie, F. et al (2002), “History of family dysfunction and perpetration of dating violence by adolescent boys: a longitudinal study”, *Journal of Adolescent Health*, 30, pp 375–383

³⁰ Swinford, S. P. et al (2000), “Harsh physical discipline in childhood and violence in later romantic involvements: The mediating role of problem behaviors”, *Journal of Marriage and the Family*, 62, 508–519

³¹ Straus, M. A., & Yodanis, C. L. (1996), “Corporal punishment in adolescence and physical assaults on spouses later in life: What accounts for the link?” *Journal of Marriage and Family*, 58, 825–841

³² Cast, A. D. et al (2006), “Childhood physical punishment and problem solving in marriage”, *Journal of Interpersonal Violence*, 21:244-261

determined.³³ Recent research also shows that the more physical punishment a child experiences, the more likely he or she is to have coercive sex, and to engage in risky sex and masochistic sex when adult.³⁴

Conclusion and recommendations

The amendment needed to remove the 'reasonable punishment' defence is clear and concise. It simply repeals, in relation to assaults on children in Wales, section 58 of the Children Act 2004. This is civil not criminal justice legislation. The amendment would have no adverse effects on other elements of the Bill (on the contrary it would of course have a very favourable impact on their long-term outcomes) and the Government's own legal advisers have confirmed that giving children equal protection is within the Assembly's competence.

- We therefore recommend that, as a primary preventive measure against domestic abuse, the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill is amended in order to effect repeal of Section 58 of the Children Act 2004 in Wales and thus prohibit all forms of physical punishment, including in the domestic home.
- We further recommend that the Welsh Government links this long overdue law reform to expanded parenting and school education on positive discipline and healthy relationships. Much of the groundwork has already been done in Wales and the introduction of the legal reform would be helpful for professionals and practitioners working with children and families as well as giving clarity to parents. It is also a necessary part of successful preventative education with children and young people.

Commentary

Without a change in the law any educational programmes or initiatives to promote healthy relationships, reduce tolerance of abuse and interpersonal violence will be seriously undermined. If our recommendations are accepted, Welsh Government will be able to rely on the support of the voluntary sector including the major children's organisations, professional associations and faith groups who are committed to supporting implementation with practical measures.

While using hitting or hurting children in order to control their behaviour or punish them remains legal, the public discourse on domestic abuse and interpersonal violence remains confusing and

³³ See for example Ian Gibson, 1978, *The English Vice: Beating, Sex and Shame in Victorian Britain and After* Duckworth.

³⁴ See for example, Douglas, Emily M and Murray A Straus. 2006. *Assault and injury of dating partners by university students in 19 countries and its relation to corporal punishment experienced as a child*. European Journal of Criminology 3:293-318. More on <http://pubpages.unh.edu/~mas2/CP-Empirical.htm>

conflicted. Decisive action by Welsh Government is long overdue and while the legal anomaly remains, what it means to be 'a good parent' remains paralysed, fixated on the pointless red herring of smacking. There is nothing good about physical punishment and much that is bad. Interpersonal violence must not become normalised in childhood and government must demonstrate strong leadership in showing that it is never acceptable to hit or hurt another person, whatever their age, gender or circumstance.

Since Welsh Government first committed to changing the law to give children equal protection 27 other countries (including 15 in Europe) have taken the action needed to do so. At the time of writing 39 countries have now prohibited all physical punishment of children, with more due to bring legislation into force soon. Although not one of these countries took this step in response to public demand, once the ban is in force rates of violence fall and none of the negative outcomes predicted by opponents has occurred. Any further delay in Wales places vulnerable children at risk, undermines other initiatives to reduce violence, bullying and abuse (on whatever basis) and calls into question Wales's previous reputation on children's rights.

'Sdim Curo Plant!

Children are Unbeatable! Cymru

September 2014

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ANNEX 1

Organisations addressing Gender-based Violence, Domestic Abuse and Sexual Violence who are signed-up supporters of Children are Unbeatable! Cymru

Aberconwy Women's Aid
Action for Children/Gweithredu dros Blant
AVA – Against Violence and Abuse
Bangor & District Women's Aid
Barnardo's Cymru
BAWSO Ltd
Blaenau Ffestiniog Women's Aid/De Gwynedd Women's Aid
Caerphilly Women's Aid
Calan DVS
Cardiff Women's Safety unit
Cardigan Women's Aid
Delyn Women's Aid
Eaves (UK)
EVAW - End Violence Against Women (UK Coalition)
Glyndwr Women's Aid
Hafan Cymru
Lliw Valley Women's Aid
National Association of Probation Officers
National Society for the Prevention of Cruelty to Children (NSPCC) Cymru
North Wales Women's Centre
Port Talbot and Afan Women's Aid
Refuge
Respect
Rhondda Cynon Taf Women's Aid
Shelter
Torfaen Women's Aid
Victim Support
Welsh Women's Aid (CAU! Cymru Strategy Group member)
Zero Tolerance Charitable Trust

Note that this list is not exhaustive. Many more of our supporter organisations are also concerned with these issues as part of their work.

ANNEX 2

States with Full Prohibition of Corporal Punishment of Children in all settings

In the following 39 states, children are protected by law from all corporal punishment (most recent first):

- | | |
|--------------------------------|-------------------------|
| 1. Bolivia (2014) | 21. New Zealand (2007) |
| 2. Brazil (2014) | 22. Netherlands (2007) |
| 3. Malta (2014) | 23. Greece (2006) |
| 4. Honduras (2013) | 24. Hungary (2005) |
| 5. TFYR Macedonia (2013) | 25. Romania (2004) |
| 6. South Sudan (2011) | 26. Ukraine (2004) |
| 7. Albania (2010) | 27. Iceland (2003) |
| 8. Republic of Congo (2010) | 28. Turkmenistan (2002) |
| 9. Kenya (2010) | 29. Germany (2000) |
| 10. Tunisia (2010) | 30. Israel (2000) |
| 11. Poland (2010) | 31. Bulgaria (2000) |
| 12. Liechtenstein (2008) | 32. Croatia (1999) |
| 13. Luxembourg (2008) | 33. Latvia (1998) |
| 14. Republic of Moldova (2008) | 34. Denmark (1997) |
| 15. Costa Rica (2008) | 35. Cyprus (1994) |
| 16. Togo (2007) | 36. Austria (1989) |
| 17. Spain (2007) | 37. Norway (1987) |
| 18. Venezuela (2007) | 38. Finland (1983) |
| 19. Uruguay (2007) | 39. Sweden (1979) |
| 20. Portugal (2007) | |



Children in Wales
Plant yng Nghymru

Communities, Equality and Local Government Committee
CELG(4)-24-14 Paper 4

‘Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill’

Consultation response for the Welsh Assembly's Communities, Equality and Local Government Committee

Children in Wales would like to thank the Welsh Assembly's Communities, Equality and Local Government Committee for the opportunity to provide evidence towards scrutiny of the ‘Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill’ (henceforth referred to as the Bill).

Children in Wales is the national umbrella organisation in Wales, bringing organisations and individuals from all disciplines and sectors together. Its aim is to make the United Nations Convention on the Rights of the Child a reality in Wales. Children in Wales fights for sustainable quality services for all children and young people, special attention for children in need, and ensuring children and young people have a voice in issues that affect them.

Children in Wales has over 200 organisations in membership, including the major third sector children’s agencies, professional associations, local authorities and health bodies, as well as many smaller community groups. Children in Wales facilitates a variety of forums including a disability forum for professionals and a network for young disabled people, a parenting forum, a poverty network and practice exchange groups in North and South Wales. Children in Wales works in partnership with the National Children’s Bureau in England, Children in Scotland, and internationally with Eurochild and the International Forum for Child welfare.

Introduction

As a bill that is designed and intended to apply to children and young people as well as adults, Children in Wales would like to see the UN Convention on the Rights of the Child on the face of the Bill as it would give a clear message about the importance of the UNCRC in conjunction with the Children and Young Persons (Wales) Measure 2011.

The Welsh Government’s Children’s Rights Impact Assessment identified that the bill relates to the following articles as being those in which this piece of work will most affect:

Articles 1, 2, 3, 6, 9, 19, 27, 34 and 39.

We will identify further rights under relevant sections of the bill that should be considered and planned for as part of the remit of this bill (Article 13, 28 and 29 and 30)

Equal Protection for Children from Assault

There is one fundamental issue that currently weakens the intentions of this Bill and endangers the successful implementation of the Bill as a whole both now and in the future. Tackling interpersonal and interfamilial violence both in terms of prevention and treatment cannot be done whilst there continues to be a legal defence for the physical punishment of children. Section 58 of the Children Act 2004 is failing to protect children and young people from painful, dangerous, humiliating and frequent assault and sends the message to them that hitting people is acceptable. The 'reasonable punishment' defence will undermine initiatives to reduce domestic abuse and gender based violence as it is inconsistent with the message that it is *never* acceptable to control another person's behaviour by hitting or hurting them.

Whenever children or young people are physically punished they receive clear messages. They are made to believe that they *deserve* to be hit physically and that the hitting is *their own fault*. They are also taught that hitting someone is a legitimate way to exert control over another person, or deal with a conflict or express frustration or anger. Whilst the legal defence for physical punishment of children continues, achieving the Purpose of the Act as stated in this Bill will be seriously hampered and undermined.

Children in Wales requests that the removal of the "reasonable punishment" defence for the physical punishment of children in Wales to be included in this Bill. The amendment to remove the 'reasonable punishment' defence is clear and concise. It simply repeals section 58 of the Children Act 2004 in relation to assaults on children in Wales,. This is civil not criminal justice legislation so arguments that the Bill is 'not a criminal justice Bill' are not relevant. The amendment would have no adverse effects on other elements of the Bill (on the contrary it would of course have a very favourable impact on their long-term outcomes).

Section 1 The Purpose of the Act

Children in Wales welcomes the fact there is no age limitation on the spectrum of the Bill. In view of this there is an opportunity here to outline specifically how each area of the Bill will tackle the needs of children and young people. The duty to provide services for child and adolescent victims and the huge potential to prevent violence within inter personal relationships through education on health relationships for children and young people is currently missing from the Bill.

It would be helpful as part of the purpose of the Act to specifically include Education as a key purpose alongside the current 3 main objectives. This would ensure that

the issue is taken forward by schools and that the prevention of gender based violence and the promotion of health relationships becomes part of the statutory duties of schools.

Section 2 Duty to Prepare, Publish and Review National Strategy

The explanatory memorandum contains no mention of attaining a reduction in gender based violence through education. The wording 'objectives specified in respect of prevention could include awareness raising campaigns **or** (our emphasis) educational initiatives' is insufficient. This should be revised to include a duty to ensure ongoing preventative education for children and young people. Without this there will be no reduction in prevalence of coercion, violence and abuse within relationships in the future. Current research on the social acceptability of coercive control and actual violence within young teenage relationships highlighted by NSPCC researchⁱ shows clearly that this issue must be addressed on a societal scale, with all children and young people, to bring about a change in attitudes and practice.

Section 4 Duty to prepare local strategies

The specific duty for Education Authorities to provide preventative education on violence (Article 19) and promotion of health relationships alongside gender sensitive information for pupils (Article 13) and specialist counselling for victims (Article 39) should be included here.

Section 6 Matters to which regard must be had in preparing or reviewing a local strategy

A duty to consult and involve children and young people's participation in the drawing up of the local (and national) strategies should be included in accordance with Article 12 of the UNCRC.

The experiences of parents, school and college staff, on the issue of gender based coercion and violence within relationships should also sought. (Schools must routinely collect pupil feedback questionnaires that are used to gauge pupil's self reported sense of wellbeing as advised and expected by ESTYN. These findings often contain information relating to pupils sense of safety and could with little adaptation contain valuable information that would be a way of monitoring impact relating to inter personal violence, sexual harassment and abuse.)

Section 8 National Indicators

Indicators on the success of preventative measures should include monitoring changing attitudes and prevalence of incidences of coercive control and gender based violence within the child and adolescent population as well.

Section 12 Power to issue statutory guidance

The explanatory memorandum should state clearly that the training framework and the Ask and Act proposal will be implemented and offered to school staff and college staff who work with children and young people as well.

Section 21 Interpretation

Children in Wales are aware that the title of this Bill has been changed from the original wording that included 'violence against women and girls' as the primary focus, to now using the words gender-based violence. The former categorisation of violence against women and girls is an internationally recognised term with an agreed definition.

*'Any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.'*ⁱⁱⁱ

This revised wording leads to ambiguity about the definition of the new terminology which needs clarification on the face of this Bill, in order that all the actions that follow from the Bill adequately target the intended outcomes as outlined in the purpose of the Act. It is not clear why Sexual Violence is mentioned separately to Gender Based Violence as sexual violence is part of the spectrum encompassed by Gender Based Violence.

The definitions offered in the explanatory memorandum do note the issue of coercive control which is a key element in the creation of abusive relationships and often precedes and paves the way towards the perpetrators justifications for actual violence. However the examples used are mostly of coercive control in a domestic adult situation. Examples of coercive control can be seen on the playground between boys and girls and this has been reported by research. The definitions used should encompass the early development of these behaviours so that preventative work can recognise and address this.

The definition of 'domestic' abuse is not one that young people would necessarily identify with, nor understand, but they may regard their own relationships as abusive or controlling. It is important that the language of the Bill does not exclude young people as the prevention of violence within inter-personal relationships needs to focus heavily on this age group where prevention can take place within educational establishments.

It is a concern that using sub categorisations of 'abuse' could have unintended consequences and leave gaps in services for children and young people because they do not fit into the definitions used by the bill. Safeguarding legislation for both

children and adults needs to fully adhered to and no loopholes or conflicts should be inherent in the Bill.

If the term gender based violence goes forward as the title of the Bill, it is important that the duty to provide gender specific services and age appropriate services is emphasised in order not to further degrade the infrastructure of support and help for all victims of violence. It is essential that there are gender specific services are in place for both female and male victims of violence (separately) and that children are given specialist services to help them overcome their trauma whether they are with their mother, father or other carer. This needs to be a clear statutory duty in order to avoid service commissioners withdrawing funding from gender specific services and from age specific services.

The term 'person' is used throughout the document. Where specific action is desirable to focus on the people under 18, children and young people should be named as such in order to ensure their unique needs are met.

ⁱ Renold, E (2013) *Boys and Girls speak out: a qualitative study of children's gender and sexual cultures (age 10-12)* Cardiff University

ⁱⁱ United Nations: 'Declaration on the Elimination of Violence against Women', General Assembly <http://www.un.org/documents/ga/res/48/a48r104.htm>

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Communities, Equality and Local Government Committee
CELG(4)-24-14 Paper 5

Title: Consultation response on the Gender-based Violence, Domestic Abuse and Sexual Violence Bill

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Information and working context of Barnardo's Cymru

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 88 diverse services across Wales, working in partnership with 19 of the 22 local authorities, supporting in the region of 8,500 children, young people and families last year. Barnardo's Cymru services in Wales include: care leavers and youth homelessness projects, young carers schemes, specialist fostering and adoption schemes, family centres and family support, parenting support, community development projects, family support for children affected by parental imprisonment, domestic abuse and parental substance misuse, short breaks and inclusive services for disabled children and young people, assessment and treatment for young people who exhibit sexually harmful or concerning behaviour and specialist services for children and young people at risk of, or abused through, child sexual exploitation and young people's substance misuse services.

Every Barnardo's Cymru service is different but each believes that every child and young person deserves the best start in life, no matter who they are, what they have done or what they have been through. We use the knowledge gained from our direct work with children to campaign for better

childcare policy and to champion the rights of every child. We believe that with the right help, committed support and a little belief, even the most vulnerable children can turn their lives around.

- **This response may be made public.**
- **This response is on behalf of Barnardo's Cymru.**

Barnardo's registered Charity Nos. 216250 and SC037605
Rhifau Cofrestru'r elusen Barnardo's 216250 a SC037605

Section 1 – The purpose of this Act:

Barnardo's Cymru support the general principles of this Bill and the need for legislation to improve the public sector response in Wales to gender-based violence, domestic abuse and sexual violence.

Section 2 and 3 – Duty to prepare, publish and review a national strategy; Duty to implement the national strategy:

We support the intention to introduce an Assembly Bill to address the policy objectives of this proposed legislation. We believe that this constitutes a positive step in terms of the Welsh Government bringing leadership and focus to work required to address gender-based violence, domestic abuse and sexual violence. We think this action would support the intention of raising the profile and awareness of these issues across Wales and provide strategic direction for taking action to address these challenges.

Potential barriers and unintended consequences:

Our main concern is that the experience of children and young people are marginalised within the Bill and its accompanying documents.

Since the publication of the White Paper in 2012 much ground has been lost as a consequence of removing the commitment to '*Ensure education on 'healthy relationships' is delivered in all schools*'. The overall responses to the White Paper evidence how much support there was for this across a broad cross-section of organisations. Reneging on this section is a serious backward step for the preventative agenda of the Bill in its entirety. Our specific concerns are laid out in a separate paper and submitted in collaboration with NSPCC and Welsh Women's Aid.

We welcome the fact that the Children's Rights Impact Assessment (CRIA) undertaken in relation to the Bill has been published. We accept that the policy intentions of the Bill, if effectively implemented, are likely to create opportunities for more children to grow up without being exposed to violence and the trauma associated with this and, as a result, will be in a better position to realise their rights.

However the lack of synergy between legislation and policy to address domestic violence, and legislation and policy to address child protection has, historically, been a significant barrier to addressing these family and intimate relationship problems effectively. The wording of this legislation does nothing to address this dichotomy.

However, we believe that the Bill offers opportunities for the stronger promotion of children's rights in line with the Minister's duty of due regard to

the UNCRC. As currently drafted the Bill does not include specific provisions for children as rights bearers.

Article 19 of the UNCRC states that:

1. States Parties shall take all appropriate legislative, administrative, **social and educational measures to protect the child from all forms of physical or mental violence**, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide **necessary support** for the child and those who have the care of child, as well as other forms of **prevention**, and for **the identification**, reporting, referral, investigation, **treatment** and follow-up of instances of child maltreatment.

We would like provision on the face of the Bill that in specifying what must be included in national and local strategies there will be an expectation that specific objectives relating to children and young people will be included. The Social Services and Well-being Act includes provision that *'a person exercising functions under this Act in relation to a child' ... 'must have due regard to Part 1 of the United Nations Convention on the Rights of the Child'*. The Bill would be considerably strengthened if the same provision were included and would ensure that a consideration of children's rights is central to the implementation of subsequent legislation and guidance.

Research carried out by the NSPCC and Bristol University between 2009 and 2011 highlighted the increasing prevalence of teenage intimate partner violence, particularly amongst vulnerable groups.¹ The UK government definition of domestic violence now includes 16 to 18 year olds. The Explanatory memorandum states that *'the Bill and any guidance will seek to support and complement existing safeguarding procedures concerning children under the age of 18, it will not replace them' (Scope of the Bill 41)*. However adolescents aged 16-18 are developing into adults and their status as such is recognised as being different. Whilst this is, theoretically, recognised within child protection practice the 'received wisdom' and attitudinal difficulties and barriers that have been experienced in practice in relation to acknowledging and recognising child sexual exploitation as abuse are a testament to how important it is to create clear legislation and guidance in relation to older adolescents. The problem with regard to child sexual exploitation has been a misunderstanding of the issue of sexual

¹ Barter, C. et al. Partner exploitation and violence in teenage intimate relationships. NSPCC. September 2009

Wood, M et al. Standing on my Own Two Feet: Disadvantaged Teenagers, Intimate Partner Violence and Coercive Control. NSPCC 2011

consent both on the part of the abused young people and some practitioners who have come into contact with them. Clearly the issue of consent and power within intimate and familial relationships is central to this legislation. Therefore we would urge that this Bill does indeed *'seek to support and complement'* the aims of the Social Services and Wellbeing Act by including a due regard to the UNCRC. We would also like to see the issue of sexual consent in adolescent relationships debated and direction provided through guidance.

There is considerable evidence that young people aged 16-24 are increasingly at risk of Intimate Partner Violence. The Violence Against Women and Girls Crime Report (CPS 2013-14) comments that *'it was of concern to note that 30.5% of victims (of violence against women and girls) were under 24 years old with 5% between 14 and 17'*. There is also a growing awareness of sexism and the roots of a distorted power balance in the relationships and peer cultures between younger children. Recent research commissioned by the Children's Commissioner for Wales, NSPCC Cymru and Cardiff University School of Social Sciences on the gender and sexual cultures of 10-12 year olds in Wales found that *'Many children were angry about having to live in a sexist peer culture and society.....mostly they were despairing at the futility of their own individual attempts at addressing everyday sexism and verbal sexual harassment²'*.

This Bill aims to *'improve arrangements for the prevention of gender-based violence, domestic abuse and sexual violence'*. It is evident that preventative education in schools, both primary and secondary, is a pre-requisite of any genuine attempt at addressing prevention in both the short and long term. The promotion of Article 19 of the UNCRC, para 1 in relation to *'educational measures'* and of Article 29 para 1(d) support the need for a comprehensive programme of education and prevention in education settings and in the community to develop the ability of children and young people to understand issues such as healthy relationships, consent and gender related bullying. We are disappointed to see that a commitment to such a programme is currently absent from the Bill.

Research evidence indicates that children who experience domestic violence in their homes as they grow up are at risk of being more tolerant of violence in their own relationships as they become adults. An analysis of serious case reviews following the deaths of children show domestic violence as a commonly recurring feature³. The Social Services and Well-being (Wales) Act introduces measures which are intended to provide a framework of services to promote well-being and provision for those with care and support needs. While children in families affected by gender-based violence, domestic abuse

² Renold, E. Boys and Girls Speak Out: A qualitative Study of Children's Gender and Sexual Cultures (age 10-12). 2014

³ Worrall, A et al. Children's and young people's experiences of domestic violence involving adults in a parenting role. Social Care Institute for Excellence. 2008

and sexual violence may be the subject of such intervention – including child protection measures there is no assurance that specific therapeutic support and treatment directed at and provided for children as rights bearers (Article 19, para 2) will be available. The Bill should set out the measures to be taken to ensure that the National Strategy and local strategies provide support and treatment to affected children so that they are able to recover from the negative impact of experiences that may limit their ability to realise their rights across other areas such as development, health, education etc.

Currently children in Wales do not enjoy full legal protection against all forms of violence so long as the defence of ‘reasonable punishment’ under section 58 of the Children’s Act 2004 remains in place. This can be used as a defence in cases of ‘common assault’. This means that parents and carers are allowed to resort to the use of a degree of violence toward their children whether they have attempted to employ positive parenting techniques or not. We think that this remains an anomaly within the Welsh Governments legislative programme and policy framework as it affects personal and social relationships and family life.

Section 4 – Duty to prepare local strategies:

We support the intention to introduce an Assembly Bill which would satisfy the policy aim of ensuring that local health boards and local authorities have a strategic focus on gender-based violence, domestic abuse and sexual violence in their local area.

We believe this will positively influence the coordination and focus of work currently being undertaken on a local level and will serve to enhance, and potentially intensify, the effective impact of operational delivery.

There may be barriers due to LHB and LA areas not being coterminous, or due to evolving cross-authority and regional working arrangements. The strategies would need to complement those of the relevant Police Forces.

Section 6 – Matters to which regard must be had in preparing or reviewing a local strategy

Recent changes to Welsh policy and legislation has led to an increased number of multi- agency approaches to address family support. The Team Around the Family approach enables a more structured approach to the deployment of multi-agency resource on a local and regional level. This has involved tiers of service being delivered on the basis of comprehensive assessment. Domestic violence is addressed through Families First Initiatives on a preventative level whilst integrated Family Support Services are focussed intensive interventions with families with complex need, deployed as a final intervention prior to the need for child protection intervention.

These initiatives are part of a suite of programmes including Flying Start and Communities First, all of which are responses to the Welsh Governments policies to tackle poverty and child poverty. As such these programmes respond to a social cohort recognised as being at high risk of domestic violence, and addressing domestic violence is a key part of the operational work involved.

The local gender-based violence, domestic abuse and sexual violence strategies will need to incorporate this activity. The multi-agency nature of this work again supports the proposal to include a requirement that due regard be paid to Part 1 of the United Nations Convention on the Rights of the Child on the face of the Bill. This would enable a closer fit with this work and result in a more comprehensive strategy.

Section 8 – National indicators;

Outcomes and indicators relating to this work need to take into consideration the strategic outcomes established for other strategic approaches to delivering related policy such as the outcomes framework relating to the Social Care and Wellbeing Act, and the Together For Mental Health outcomes framework.

Sections 11 to 14 – Meaning of ‘relevant authority’; Power to issue statutory guidance; Consultation and National Assembly for Wales procedures; Duty to follow statutory guidance

Barnardo’s Cymru welcomes the proposal for statutory guidance on the National Training Framework, Ask and Act and Multi-agency Fora.

National Training Framework and ‘Ask and Act’

Our concern in relation to the National Training Framework and ‘Ask and Act’ is that they are informed with regard to the issues as they affect the experience of children and young people. The ‘All Wales Practice Guidance on Safeguarding Children and Young People Affected by Domestic Abuse’ lists the risks to children and young people living with domestic abuse as including the following:

- Direct physical or sexual abuse of the child. Research shows this happens in up to 60% of cases; also the severity of the abuse against the non-abusive parent is predictive of the severity of abuse to the children
- The child being abused as part of the abuse against the non-abusive parent

- Being used as a pawn or spies by the abusive partner in attempts to control non abusive parent
- Being forced to participate in the abuse and degradation by the abusive partner
- Emotional abuse and physical injury to the child from witnessing the abuse
- Hearing abusive verbal exchanges between adults in the household.

The assessment of risk in relation to situations of domestic violence is notoriously difficult. The welfare of children, including teenagers, is highly dependent on those with caring responsibilities for them. However emotionally and physically abused parents/carers may unwittingly neglect their children due to having to deal with their own physical and mental health responses to their own abuse. The abused parent/carer may also be abusing their children. It's important that in such situations both the needs of the parent and child are addressed simultaneously. Paying due regard to the needs of all parties involved, including the perpetrator, may require a multi-agency approach to the assessment process.

As part of the assessment it's important that all professionals ascertain early on in the process whether there are children in the household, or whether the adults involved have care of children. The assessment in relation to the safety of the children can then be considered as part of the initial assessment, or separately by specialist child protection personnel. It's important that the initial assessment needs of the child are not overlooked due to assessor bias. If the assessor views the abused adult/parent as their primary client then this will compromise their capacity to give due regard to the needs of the child or young person. At this point they should allocate the assessment of the child's safety to another professional who can pay them due regard.

The All Wales Child Protection Procedures Review Group have produced a highly regarded portfolio of practice guidance, including one which addresses safeguarding children and young people affected by domestic violence and another addressing the safeguarding needs of those affected by child sexual exploitation. These practice guides are relevant for a cross –section of frontline and specialist practitioners working in the statutory and voluntary sectors and could inform the development of training.

Multi-agency Fora

The Multi Agency Risk Assessment Conference (MARAC) is a recognised and respected approach to addressing high risk cases of domestic and intimate partner violence. Organisations working with children and young people are represented on the MARAC which means that it is an example of a strategic and practice approach which successfully bridges the divide between child protection work and domestic violence work, which has been problematic in the past.

Multi-agency approaches are effective in addressing safeguarding and protection issues as they support improved information sharing between agencies which leads to improved assessment and more effective allocation of resources. We would advocate for all LHB/LA areas to establish Multi-agency Safeguarding Hubs (MASH), which are frameworks within which specialised safeguarding multi-agency approaches can sit. These could include the MARAC, Child Sexual Exploitation Protocols, Domestic Violence protocols and Missing Protocols. The MASH would then become a single point of entry for cases where there are safeguarding needs. This facilitates more consistent assessment being administered so that a suitable referral pathway can be established at the earliest opportunity. Just as the Team Around the Family/Joint Assessment Family Framework performs this task with regard to the implementation of policy in relation to poverty, the MASH has the same potential for efficiency and efficacy in relation to this legislative and policy addressing violence and sexual violence.

Perpetrator programmes

There is no reference made in the documentation to perpetrator programmes and whether they will be included within the remit of the National Training Framework. We believe that ongoing work to develop effective perpetrator programmes and to increase the capacity for early identification of, and intervention with, perpetrators is an important part of the overall approach to address these issues.

Sections 17-20 – Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence; Functions of the Adviser; Annual plan and annual report; Publication of reports:

Barnardo's Cymru agrees that an executive function operating at government level is required to drive through the changes outlined in the Bill. However we remain concerned that the role of ministerial adviser, as described, may be too broad in reach and too limited in authority to achieve the change required.

The ambition of the proposals outlined in the Bill lie in the cultural, attitudinal and ultimately behavioural change that are its aims. This legislation lays the ground, or prepares the framework, within which it is hoped the real hard work of these changes can begin to take place.

In our view this requires a role which is more than an executive role with functions to advise, assist and provide research. A role is required which has the authority to drive forward the implementation of the national and local strategies and ensure that gender-based violence, domestic abuse and

sexual violence are tackled with thought and vigour ensuring that the victims have access to their human rights.

Despite the larger costs to be incurred we remain of the opinion that this is work that can only be driven effectively by an Independent Commissioner role, which can hold government and other Welsh institutions to account. This is particularly important at this point in time when economic recession has driven more people into poverty and vulnerability, whilst support services such as Citizens Advice and Women's Aid have been reduced. An Independent Commissioner would ensure a high public profile for these issues as well as a resource that could be approached directly for advocacy and support. We think that creating a commissioner for gender-based, domestic and sexual violence would evidence the governments commitment to a fairer and better society and would be an investment in the future of Wales beyond the recession.

Communities, Equality and Local Government Committee
CELG(4)-24-14 Paper 6



Cardiff School
of Social Sciences



Gender based Violence, Domestic Abuse and Sexual Violence Bill

A Response on Prevention, Pedagogy and Policy

from the research findings of NAFW commissioned research
“Boys and Girls Speak Out: A qualitative study of children’s gender and
sexual cultures” (2013)

Professor Emma Renold, School of Social Sciences,
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1. Introduction

On 9th July, the minister for Local Government assured all assembly members that **“healthy relationships education is a very important part of preventing gender-based violence, domestic abuse and sexual violence. I think that teaching our young people to be aware of what behaviour is and is not acceptable at a very young age can help them to develop healthy relationships in their own lives and prevent abuse in future relationships. My officials and those of the Minister for Education and Skills are working together to assess how we might include further provisions in this area in Stage 2 or 3”**.

I welcome the Bill’s key aim ‘to improve arrangements for the **prevention** of gender-based violence, domestic abuse and sexual violence’. However, I am puzzled and concerned that proposals in the White Paper to ensure that, education addressing inter-personal violence and safe relationships via a mandatory whole-school approach is delivered to all children and young people, is notably **absent from this Bill**.

This absence is all the more **urgent and concerning** in light of recent research findings (Renold 2013) that pre-teen children (age 10-12) growing up in Wales report increasingly **compulsory boyfriend-girlfriend cultures in which gender-based forms of conflict, coercion and control are seen by children**

as an inevitable component of young relationships and common place (see also Lombard 2014).

Prevention, pedagogy and policy in this area is fundamental to addressing the realities of children's early relationships cultures at the age of 10, 11 and 12.

Indeed it is vital that preventative pedagogy and policy does not solely consider gender-based violence and harassment as something which only affects children's 'future relationships' in adolescence and beyond.

2. PREVENTION, PEDAGOGY AND POLICY

This response asks the Welsh Government to consider putting prevention, pedagogy and policy at the heart of the Bill. It asks that they fulfil their commitment, made in the Violence Against Women, Domestic Abuse and Sexual Violence White Paper to **ensure ALL school age children and young people in Wales receive a comprehensive education via a whole-school core curriculum that addresses** their reported and often **daily experiences of inter-personal gender-based violence and sexual harassment.**

It calls on Welsh Government to consider the following, during Stage One:

A. Prevention

It is paramount that the Bill foregrounds *prevention* and includes measures on 'Improving Education and Awareness' in educational settings. Such a move will strengthen the current Welsh Government Curriculum Review as it clarifies its "supporting measures" on how to address and embed the education of ALL children on issues and experiences of gender-based violence, domestic abuse and sexual violence through a core PSE curriculum.

B. Pedagogy

There is currently no standardised PSE pedagogy that directly addresses pre-teen children's everyday realities of negotiating sexism, sexual harassment and sexual violence from within a gender equalities framework. Any pedagogy must be informed by the following:

A Whole-school Approach that is experience-near, age appropriate and rights based.

Pedagogy aimed to prevent gender based violence and harassment is most successful when it is mediated through a whole-school approach and can be taught across a range of curriculum subjects, from science to English literature or history for example.

While ensuring that any pedagogy is both age-appropriate and experience-near is challenging, it is absolutely essential in meeting and supporting children's

needs and experiences that directly address their own everyday realities of gender-based violence and sexual harassment.

Only by foregrounding children's own voices and experiences, and thus giving due regard on the UNCRC (Articles 34, 28, 19, + 13) can the Bill enshrine in law every child's right to be safe and promote cultural change that challenges gender stereotypes and prejudice in line with a human rights approach¹ and the Public Sector Equalities Duty.

Gender Equalities Framework:

Any pedagogy to address inter-personal gender based violence and sexual harassment needs to be embedded within a gender equalities framework that addresses how gender stereotypes are embedded in, and used to justify, coercion, control and harassment in young relationships. This is particularly the case for pre-teen children (Renold 2013, Lombard 2014). Indeed, evidence (see below) suggests that many young children were coupling up as boyfriend and girlfriend early so they could participate, without gender-based harassment, in non-stereotypical gendered activities.

Involving Children and Young People

Educational resources, strategies, practices and policies need to connect with children and young people's *own* experiences, which is in line with Welsh Government's commitments to pupil voice and article 12 of the UNCRC. Pedagogic practices that are most successful occur when children and young people have been directly involved in their production and, where appropriate, their delivery (e.g. peer-led lessons).

Evidence Based Training:

For teachers who do recognise and want to address some of the everyday gendered and sexual harassment that takes place within and across boys' and girls' peer group cultures, many lack the training and confidence that such training can often foster, or they may be unsupported by senior management.

Given that PSE is not mandatory but left to the discretion of each individual school (section 101 (1) of the Education Act 2002), some teachers may find both time and resources for training in the area of 'healthy relationships' hard to negotiate.

C. Policy

¹ General obligation contained in Article 12 of the Convention on the Elimination of all Forms of Discrimination against Women in terms of (1. Parties shall take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men).

Making 'healthy relationships' education (as outlined above) *mandatory* is the only way to begin to ensure children and young people progress through the education system free from conflict, abuse and coercion in their young relationships and free from gender-based and sexual harassment in their everyday peer interactions. While this proposal may be considered as part of the curriculum review, it certainly does not preclude its inclusion in the Bill.

However, policies, guidance and duties do not necessarily translate into practice. While there is much good practice about, it can vary considerably across local authorities and individual schools and third sector organisations. Indeed, we need to look at and learn from best practice both within Wales and further afield to ensure appropriate and fit for purpose curriculum content.

Having a core mandatory curriculum, evaluated and inspected by Estyn, with evidenced based learning outcomes and resources is essential to ensure consistency and quality.

3. THE EVIDENCE

This response is based upon research carried out on behalf of the NAfW Cross Party Group on Children's Sexuality—Sexualisation and Equalities and funded by the NSPCC, Cardiff University and the Office of the Children's Commissioner for Walesⁱ

Renold, E. (2013) Boys and Girls Speak Out: A Qualitative Study of Children's Gender and Sexual Cultures (age 10-12).

Aims and Methods: The research used participatory methods to generate qualitative data on how diverse groups of pre-teen children (age 10-12, n=125) understand their own and other's gender and sexual identities, relationships and cultures. Its core aims were three-fold:

- to address the lack of knowledge about children's own sexual cultures in the context of their everyday lives;
- to foreground equality and diversity (Public Sector Equality Duty, 2012);
- to enable children's own views and experiences to inform and shape future research, policies and practice (Article 12, UNCRC).

The full report is downloadable here:

http://www.nspcc.org.uk/Inform/research/findings/boys-and-girls-report_wdf100416.pdf

The Executive summary is downloadable here:

http://www.nspcc.org.uk/Inform/research/findings/boys-and-girls-summary-English_wdf100422.pdf

The following 'evidence' sections focus specifically upon the findings of section 4 of the report which documented children's views on their own relationship cultures (age 10-12).

It is important to note, that children were not asked directly about gender-based violence or sexual harassment. These comments emerged in discussions about young boyfriend girlfriend cultures and general talk on bodies and body image.

3.1 Research overview of sexual harassment in pre-teen relationship cultures

1.1 When sexual harassment in peer cultures has been the focus of research, the site of investigation has been the secondary school and usually the lives of teenagers. However, as recent research is increasingly demonstrating, sexual coercion and harassment are not confined to older teens, but emerging in the everyday lives of pre-teen children (Pelligrini 2001, 2002; Renold 2002; Stein 1996, 2007, 2013; Gådin 2012; Afra 2013; Holford et al. 2013, Lombard 2014).

1.2 This research prioritised children's own reporting of what they considered to be unwanted, offensive and hurtful behavior as constituting sexual harassment. This was important given how a singular act or event or set of practices can have multiple meanings. For example, as Renold (2002: 418) found, 'bra pulling' could be experienced by girls both positively (e.g. a welcome sign of a boy or girl's romantic or sexual interest) and negatively (e.g. an invasive practice and humiliating recognition of a girls' sexual maturation).

1.3 While most children reported either experiencing direct or indirect incidents of sexual harassment, from slut-shaming to anti-gay talk, much of this occurred in and across the gendered and sexual dynamics of children's everyday peer cultures. However, young boyfriend-girlfriend cultures were a volatile mix of anxiety, pain, pleasure and power with many girls and boys talking about a range of unwanted, offensive and hurtful sexual behaviours.

Selected Findings from "Boys and Girls Speak Out" (Section 4, pp. 75-100)

3.1 Pre-teen Boyfriend-Girlfriend Cultures

3.1.1. Many children talked about the pressure to participate in boyfriend-

girlfriend cultures in school, making boy-girl friendships almost impossible. The pressure to turn a boy-girl friendship into a boyfriend-girlfriend 'relationship' in primary school was pervasive.

Kelsey: *I was best friends with a boy called Jay. And that's just changed now, When I seen him he'll talk to me but then, if he's with the boys he'll like call me names, like tramp and stuff like that [Year 8]*

Hayley: *Oh, the peer pressure*

Vicky: *Yeah, like people asking you to go out who I [don't want to] go out with takes away a lot of your energy like I get really tired and cry and cry about it [Year 7]*

3.1.2. Many boys and girls had little choice but to participate in or witness the heterosexualising practices of fancying, dating and dumping, such as who 'liked', 'loved', or was 'hot' for who. This was particularly the case in children's final year of primary school.

Nico: *At my primary school you just had to [go out with someone], it was a virtual rule [Year 7]*

3.1.3. While the degree to which girls and boys participated in these heterosexualising practices varied considerably across the sample, most children could name and discuss them at length. In some schools, children described their participation as compulsory and as a cycle of endless 'going out and dumping' that was subject to constant peer scrutiny and evaluation.

Aron: *Darryn was just talking to a girl ... and then all the girls went, 'oh they're flirting, ooh aaah' [Year 7]*

Darryn: *It's annoying ... cause we were learning partners, because you know, if you're learning partners, you have to talk, but you can't [Year 7]*

3.1.4. For some boys, simply 'having a girlfriend', 'any girl' was enough to secure social status and popularity. In contrast, many girls highlighted the ways in which their status as 'girlfriends' objectified them, particularly when girls' attractiveness was rated and ranked. Many girls also resented how they were 'passed around' and 'fought over' by boys who wanted to claim them as 'theirs'.

Robyn: *They ask someone to ask the same girl out again and again, they like pass you around [Year 7]*

3.1.5. For girls, being a girlfriend was talked about as an inevitable part of being

a normal girl and variously described as an identity that was older, scary, constraining, powerful, and something that had to be endured and got used to. Resisting or rejecting the world of girlfriends and boyfriends was difficult for girls, particularly in schools and communities where early boyfriend-girlfriend cultures were strong.

3.1.6. For boys, being a boyfriend was not a defining feature of pre-teen boyhood. Many boys did not want a girlfriend. For younger boys, being a boyfriend was a precarious role that aligned them with femininity (which could be shaming) and heterosexuality (which could bolster their 'masculinity'). Boys were more able to resist participation in boyfriend-girlfriend cultures than girls.

Kelsey: They call all the girls [who don't go out boys] tramps ... If we wouldn't [hug and kiss], they'd call us a fridge [Year 8]

Alun: [If a girl breaks off a relationship with a boy] they slag her off like, innit ... they get really angry ... the older you get the more serious it gets [Year 8]

3.1.7. Deep investment in being a boyfriend or girlfriend was highly classed, raced and gendered, and drawn upon in a range of ways. One boy talked about how his primary school girlfriend helped him cope with the death of his father. Another boy explained how he had to pretend that his best friend Alice was his cousin for an entire school year, so that they could hang out free from heterosexual verbal harassment. Girls living in communities where they witnessed domestic violence talked about finding a boyfriend who could protect them.

Veronique: [I want a boy] who won't cheat on you [Year 6]

Jessie: Who won't raise a hand to you [Year 6]

3.2 Sexual harassment, coercion and control in pre-teen boyfriend-girlfriend cultures

3.2.1. Coercion and harassment is a key part of many boyfriend-girlfriend cultures and viewed by many children as an inevitable part of young relationships.

3.2.2. Very few children felt comfortable talking about the abusive power plays in boyfriend and girlfriend cultures with parents or teachers.

Daman: Keep to ourselves, because in our school teachers wouldn't know about it because it would make it awkward/ [Year 7]

James: My dad says they are all my girlfriends. If I have a friend what is a girl, he says they are my girlfriends and winds my up about it [Year 6]

Kayley: They [staff on dinner duty] go ‘the more the boys hit and chase you the more they love you’ [Year 6]

3.2.3. Boyfriend-girlfriend cultures were frequently talked about as compulsory, scrutinised, collective and highly public practices. Many children talked about these practices as contradictory, hierarchical and rarely consensual.

Veronique: He just wants to go out with every girls he sees, it’s like, it’s basically like, if he wants to go out with one girl, he’ll ask and ask and ask and ask until that girl says yes [Year 6]

3.2.4. Some girls talked about going out with boys they didn’t want to and some avoided dumping them so as to not to hurt their feelings. Many children also witnessed coercive sexual practices, such as being ‘forced to kiss’ in the playground, which urges us to shift our understandings from consent as a process between two individuals to consent as a social process negotiated in peer group cultures. Current pedagogic interventions do not address group ‘consent’ in this way.

Cal: (in primary school) Like we used to have a wheelchair alley thing to go down for kids, and then my friend was dragged into there with this girl and they said ‘go on kiss’ and all this [Year 7]

Tessa: People try and push you together [] Myra: And I think that the only reason I went out with this person because it was like on text, and I felt really bad about saying no. You can’t like say no. So you are like, ‘okay’ [Year 8]

Sadie: If a girl is asking them out and they ask them out too many times, they go to their friend and say, ‘if she is going to ask me out again, it’s your decision’ and so the boys make up the other boy’s mind for them

INT: So you could end up going out with a boy because another boy said yes?

Sadie: Yeah [Year 6]

3.2.5. Girls with deep investments in ‘being a girlfriend’, talked about going out with boys they didn’t like or who were abusive to them, with some girls interpreting their abusive behavior as a sign of flirtation. Some girls refused to delete ‘nasty’ texts because they were ‘in love’.

INT: Does a girl ever go out with a boy when she doesn't really want to?

Karina: Because their friends force them sometimes

Sadie: Sometimes you don't like them

Karina: You end up giving in sometimes

Sadie: You give up because they keep nagging [Year 6]

3.2.6. Boys with deep investments in 'being a boyfriend' and boys positioned low down the gendered and sexual peer group hierarchies were also described as the same boys who would engage in harassing behavior such as repeatedly asking girls out, or sending abusive texts to girls who refused to go out with them, or ended the relationship.

Maisy: they will say 'well go out with me or I will hate you' or something like that. And then the girls will get scared and they will go with them (Year 6)

3.2.7. Children who talked about receiving sexually abusive texts and emails also talked about how they could be deleted or blocked, and almost all of the children described in detail exactly how to achieve this. However, they were much less confident and felt more vulnerable about how to deal with ongoing 'romantic' advances (e.g. repeatedly being 'asked out') or sexually harassing comments from boys in school and in their community, with one girl hiding in her house, refusing to open the door.

Maisy: A lot of the boys like, were ganging up on me, cause I wouldn't go out with them and then he found out, the group found out where I lived and they like, used to go in and like walk up and down my street (Year 6)

3.2.8. Some girls and boys resorted to physical and verbal bullying as a response to coercive, controlling or abusive behaviours and a compulsory boyfriend-girlfriend culture.

4. Concluding Statement

4.1 125 children across south Wales shared some deeply personal experiences of what it means to negotiate the everyday sexism, and gender-based and sexual harassment in their young peer cultures. These experiences were shared under the assumption, as outlined in the commissioned cross-party group research aims, that their views would shape, inform and be addressed by future Welsh government policy and practice (Article 12, UNCRC).

4.2 It is thus imperative that **prevention, policy** and **pedagogy**, as outlined above, be considered at Stage One if the Bill is to fulfil its general principles.

Indeed, without legislative change, children's experiences of coercion, control and harassment in their pre-teen relationship cultures will remain hidden and inevitably endure.

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Written submission to the Communities, Equality and Local Government Committee of the Welsh Assembly Government in respect of the Committee's inquiry into the Gender –based Violence, Domestic Abuse and Sexual Violence (Wales) Bill

By

Professor Jonathan Shepherd CBE, professor of oral and maxillofacial surgery and director of the violence and society research group, Cardiff University

National Strategy

- This strategy should be prepared in the context of existing national strategy; clarity with regard to the standing of existing strategies is needed.
- The relationship between national and local strategies needs to be clear so that duplication of effort is avoided. It is not clear, for example, whether local strategies need to be consistent with the new national strategy. As drafted, the bill refers to local strategy setting “having regard” to the national strategy; such a statement seems unlikely to be strong enough.
- The national strategy needs to focus on and refer to specific evidence-based interventions. Past experience is that high level strategic intent often does not translate into the specific actions and outcomes ministers intend

Local strategies

- Local strategies should focus on and refer to specific evidence-based interventions. Lack of such focus will open the door to interventions of no proven utility, leading to waste of resources which might otherwise be focussed on effective interventions.
- The development of effective local strategies requires that relevant authorities have the expertise to identify interventions with a strong evidence base and to identify – and discard – interventions of unproven utility
- Why are local strategies needed at all? Instead, why not introduce a statutory duty on relevant authorities to implement the national strategy?

Improving public sector responses

- The provisions in the bill need to guard against relevant authorities' drive to cut costs to the detriment of local implementation. Recent examples include substantial reductions in Community Safety Partnership analyst resource and cost cutting of CCTV schemes – both increasing the risk of gender-based violence
- It is not clear whether the “Cardiff Model” of information sharing by emergency departments for the purpose of violence prevention is still operating across CSPs in Wales. There is, therefore, merit in making provision in this bill for auditing compliance
- The identification of risk of victimisation is assisted by introducing the provision for confidential reception of patients in NHS facilities
- Adequate responses to victimisation or the risk of victimisation could be audited by Health Boards as part of their clinical governance responsibilities

The Ministerial Advisor

- Limitation of the responsibilities of the advisor to giving advice, gathering information, and providing reports seems very likely to reduce the potential effectiveness of this role. Powers would usefully include the facility to initiate local reviews; such reviews might lead, for example, to the imposition on local authorities of special measures with respect to violence prevention
- The bill should provide for formal links – directly or indirectly - between the advisor and existing regulatory machinery
- The bill states that the advisor would undertake research. It seems unlikely however that a suitably qualified advisor would have the necessary research skills – especially with regard to evaluation. A better option would be, perhaps, to give the advisor powers to commission research; funding would be needed for this which could be channelled through existing research arrangements such as the National Institute for Health and Social Care Research

Barriers

The work required to formulate national and many local strategies may be a barrier to achieving quality assured local delivery

Cost cutting by local authorities and health boards already is a barrier to implementing violence reduction interventions.

Unintended consequences

- If enacted, the bill is likely to have positive consequences which are not currently envisaged in the draft legislation. These include more effective violence prevention and support services for those at risk in categories of violence not listed in the bill. Any improvements in privacy in NHS reception facilities would improve care quality for many more patients than just those harmed or at risk of gender based and sexual violence.
- As drafted, the bill might result in a great deal of resource being expended on strategy setting – to the detriment of improving local delivery
- Revising national indicators often leads to confusion about, and distrust in indicators. For example, the repeated revision of crime recording rules has severely undermined CSP confidence in police records as a measure of violence – and therefore confidence that progress is being achieved

Jonathan Shepherd

5th August 2014

**Written evidence presented by Professor Jackie Jones,
University of the West of England, Chair, Wales Assembly
of Women, September 2014**

GENDER-BASED VIOLENCE BILL

1. I want to thank the Committee for the invitation to be part of this academic panel and the opportunity to submit written evidence. Because of constraints on space, the submission makes four main points: human rights approach; gender neutrality; gender specific legislation; and legal definitions.

2. Wales finds itself at a crossroads: on the one hand, it has grasped the opportunity to enact groundbreaking legislation in the field of violence against women. To that end, many of the provisions in the Bill are to be applauded (e.g., establishment of an (Independent) Ministerial Advisor). Wales is seen around the world as a leader in this field, personally noted by the UN Special Rapporteur on Violence against Women during her visit to Wales in April 2014.¹ On the other hand, there are certain aspects of the Bill, which are of concern. I shall focus on the legal issues.

3. Basing the law in a human rights framework

3.1 Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments – at all levels. By basing the law in the human rights framework the state acknowledges its full commitment/obligations/responsibilities vis-à-vis its citizens, including protection and prevention from violence.

3.2 The full and equal enjoyment of all human rights and fundamental freedoms by women and girls is a priority for Governments and is essential for women's development. Recognition of the importance of the human rights of women is reflected in the fact that nearly every States of the United Nations has become a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

¹ The Special Rapporteur will present her report on the UK to the Human Rights Council in July 2015, in time for inclusion of the provisions of **this** new Act into the Report.

² Examples include the appointment of a Children's Commissioner, Older Persons Commissioner, mental health strategy, etc. Women are not excluded from this approach.

³ See reports of the Committee on the Elimination of Discrimination against Women, for example, CEDAW/C/NLD/CO/4; CEDAW/C/POL/CO/6; CEDAW/C/FIN/CO/6; CEDAW/C/UK/CO/6.

⁴ '118. Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement. Violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society. Violence against women is exacerbated by social pressures, notably the shame of denouncing certain acts that have been perpetrated against women; women's lack of access to legal information, aid or protection; the lack of laws that effectively prohibit violence against women; failure to reform existing laws; inadequate efforts on the part of public authorities to promote awareness of and enforce existing laws; and the absence of educational and other means to address the causes and consequences of violence. Images in the media of violence against women, in particular those that depict rape or sexual

3.3 Violence against Women is acknowledged by governments around the world as one of the most pervasive forms of human rights violations in the world today (United Nations Commission on the Status of Women Conclusions 2013). In the EU the 2014 FRA Europe-wide Survey on violence against women has highlighted the staggering numbers of women who suffer violence (http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14_en.pdf). To this end, governments around the globe have and do enact legislation and national action plans/strategies that are gender specific in order to deal with the pandemic of violence against women. This has accelerated in recent years, with action in all parts of the globe.

3.4 The Bill needs to include and address all forms of violence against women and prevention thereof if it is to be grounded in a human rights framework – a commitment the Welsh government made in manifestos, policies, strategies and speeches². The definitions section will address this issue further.

4. Gender neutrality

4.1 Gender neutrality is not the right approach for the bill and is not proscribed by law. The UN Committee on the Elimination of Discrimination against Women has criticized States that have moved to the gender-neutral approach.³ The CEDAW Committee examined the UK in 2013 and made several recommendations regarding violence against women (paras. 34-41; CEDAW/C/GBR/CO/7; <http://www.nawo.org.uk/wp-content/uploads/2012/07/Concluding-Observations.pdf>).

4.2 The international, regional, EU and Welsh legal obligations proscribe a substantive equality approach, underpinned by an understanding that transformative change (or ‘improvements’ – as indicated in the Bill) can only happen when systemic change occurs. Making legislation gender neutral implies that men are subject to the same systemic obstacles and inequality as women and have suffered from the same level of historic discrimination as women. This is not the case.⁴ Therefore a different approach is required.

² Examples include the appointment of a Children’s Commissioner, Older Persons Commissioner, mental health strategy, etc. Women are not excluded from this approach.

³ See reports of the Committee on the Elimination of Discrimination against Women, for example, CEDAW/C/NLD/CO/4; CEDAW/C/POL/CO/6; CEDAW/C/FIN/CO/6; CEDAW/C/UK/CO/6.

⁴ ‘118. Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women’s full advancement. Violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society. Violence against women is exacerbated by social pressures, notably the shame of denouncing certain acts that have been perpetrated against women; women’s lack of access to legal information, aid or protection; the lack of laws that effectively prohibit violence against women; failure to reform existing laws; inadequate efforts on the part of public authorities to promote awareness of and enforce existing laws; and the absence of educational and other means to address the causes and consequences of violence. Images in the media of violence against women, in particular those that depict rape or sexual slavery as well as the use of women and girls as sex objects, including pornography, are factors contributing to the continued prevalence of such violence, adversely influencing the community at large, in particular children and young people.’ UN 4th World Conference, Platform for Action, 1995. <http://www.un.org/womenwatch/daw/beijing/platform/>

4.3 Gender neutrality furthers the agenda of silencing women's voices and making invisible the pervasive forms of violence perpetrated against them. It keeps women in their place, allowing the climate of fear to continue unabated, giving them the message that their experiences are not worthy of specific state action.

4.4 A gender-neutral approach cannot and will not improve 'prevention, protection or support' (as outlined in the Bill). There is very little purpose in passing a Bill that will not address the very violence it is meant to stop. Not focusing on women and girls has cost the lives of many women and girls. It condemns them to a life of misery. It would be a disgrace not to concentrate on these issues in the face of overwhelming evidence of abuse that has come to light since Jimmy Saville and the cases therefrom, the Rotherham Inquiry, the Oxford sex trafficking cases, and many others. Not making the legislation gender specific fails the victims and allows the climate of impunity to continue. This is the fertile breeding ground of the causes of violence against women and girls.

4.5 By failing to name the Bill a 'Violence against Women' Bill the historic moment for Wales to take a lead in the world on this issue will have been lost – forever. History remembers the bold moments – for example, US President Johnson's 1964 signing of the Civil Rights Act or the UN Platform for Action on Women's Rights signed at Beijing in 1995. It is what the women of Wales deserve.

5. Gender-specific legislation/international treaties on violence against women

5.1 There is international precedence for establishing laws and strategies specifically targeting violence against women. Some only (due to length restrictions) are detailed below.

5.2 There are two regional Conventions that establish legal frameworks for the protection of women, and prevent, punish and eradicate all forms of violence against women: the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (**Convention of Belem do Pará** - 1994: for Latin America and the Caribbean; see below); and the European Convention on Preventing and Combating Violence Against Women and Domestic Violence (**Istanbul Convention** – 2011: for Europe; <http://www.oas.org/en/mesecvi/docs/MESECVI-CoE-CSWPub-EN.pdf>).

5.3 The Istanbul Convention came into force on 1 August 2014. To date 14 member states of the Council of Europe have ratified it and 22 have signed it. The UK signed it on 8.6.2012. Under international law, **the fact the UK has signed the Convention means that it has made a commitment to do nothing in contravention of its terms.**

5.4 The Convention is specifically about violence against women and domestic abuse and offers a vast amount of protection and prevention provisions for victims. It is seen as the most progressive instrument in force today that clearly sets out states' obligations in the specific area of violence against women. The Convention does not exclude men (e.g., Preamble) but makes it clear that because of the vast numbers of victims of gender-based violence in Europe, the focus has to be women and girls.

5.5 Member states are required to ‘establish a comprehensive and co-ordinated policy addressing all forms of violence covered by the Istanbul Convention and offering a holistic response to violence against women.’ States Parties will be monitored by a group of independent experts (GREVIO) on these obligations. Wales has an historic opportunity to set up the mechanisms for this now. The Convention provides one of the legal bases for doing so.

5.6 Some examples of specific actions in the field of violence against women are

5.7 **UK:** The UK Violence against Women Strategy, along with local authority strategies (e.g., Lord Mayor of London); CPS Violence against Women Crime Report 2013-14; The newly appointed Seema Malhotra, Labour MP for Feltham and Heston, Shadow Minister for Preventing Violence Against Women and Girls; Women’s Safety Commission and the proposal to establish a Commissioner.

5.8 **UN:** UN, Secretary-General (2006), *Ending violence against women: From words to action. Study of the Secretary-General*, A/61/122/Add.1, 6 July 2006; UN Task Force on Violence Against Women, UN, General Assembly, Resolution on Intensification of efforts to eliminate all forms of violence against women, A/RES/61/143, 19 December 2006, p. 6; the new Model Protocol developed by the UN Human Rights Office and UN Women concerning the femicides in Latin America: <http://www.ohchr.org/EN/NewsEvents/Pages/EndingImpunityLAC.aspx>

5.9 **EU:** Council of the EU March 2010 Conclusions on the eradication of violence against women in the European Union; European Commission’s 2010 *Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence*; European Commission’s 2010 Communication concerning the Women’s Charter; Directive 2011/36/EC of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims; Gender Equality Directive (recast) (Directive 2006/54/EC of OJ 2006 L 204); the EU mid-term review of the Strategy for equality between women and men (2010–2015); the EU Institute for Gender Equality.

5.10 **Council of Europe:** Parliamentary Assembly of the Council of Europe several recommendations and resolutions on violence against women and girls; a Task Force to combat violence against women was established in 2005. Istanbul Convention 2011: Gender Equality Strategies (http://www.coe.int/t/DGHL/STANDARDSETTING/EQUALITY/02_GenderEqualityProgramme/Council%20of%20Europe%20Gender%20Equality%20Strategy%202014-2017.pdf); Gender Equality Commission; Council of Europe held the Thematic Debate on “Violence against Women, the Council of Europe response, arch 2014; 29 July 2014 Commissioner for Human Rights issued a statement entitled ‘Fighting violence against women must become a top priority’.

5.11 **France:** New substantive gender equality law enacted in July 2014. **Greece:** National Programme for the Prevention and Combating of Violence against Women 2009–2013. **Lithuania:** Law on Protection against Domestic Violence of 2011 which includes provisions on prevention, protection and support measures, as well as in the

National Strategy for Combating Violence against Women of 2006. **Spain:** Government Delegation for Gender-based Violence.

5.12 The above list makes clear that gender specificity in legislation is not an isolated occurrence. Indeed, it is becoming **more** prevalent. There are no legal impediments that I can see making it unlawful to enact gender specific legislation. Threats of legal action are a concern regardless of subject matter; why should women's rights be treated with more caution than other areas? This is a manifestation of passive violence that halts progress for women's full citizenship.

6. Legal Definitions

6.1 The Bill is not developing any new laws. It is therefore surprising to see that the definition of gender-based violence and abuse proposed in the Bill is different to the nationally and internationally agreed legal definition.

6.2 The definition focuses on some of the causes of gender-based violence, rather than on what happens when gender-based violence occurs. In other words, it flips the emphasis without providing the powers to address the causes. The proposed national and local action plans and the Ministerial Advisor role are designed to provide leadership. If the Bill remains unchanged, the focus will be narrow and a key opportunity will have been lost. It is unhelpful to the degree of being exclusive, rather than inclusive. **The Bill should adopt the internationally recognized definition.** In this way, it can still address the causes as well as the consequences of violence, fulfilling its original aim.

6.3 Gender-based violence (GBV) is violence that is directed against a person on the basis of gender. It constitutes a breach of the fundamental right to life, liberty, security, dignity, equality between women and men, non-discrimination and physical and mental integrity.

6.4 However, the bill defines gender-based violence very differently (narrowly) as:

'gender-based violence' (*"trais ar sail rhywedd"*) means—

1. (a) violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation;
2. (b) female genital mutilation;
3. (c) forcing a person (whether by physical force or coercion by threats or other psychological means) to enter into a religious or civil ceremony of marriage (whether or not legally binding);

6.5 International definitions of Violence against women and gender-based violence

6.6 **United Nations** Declaration on Violence against Women and The Beijing Declaration Platform for Action:

Article 1: "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2: Violence against women shall be understood to encompass, but not be limited to, the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

6.7 **United Nations** General Recommendation No. 19 on Violence against Women, Committee on the Elimination of Discrimination against Women (CEDAW):

Gender-based violence is violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

6.8 **The Council of Europe** defines violence against women as ‘all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.’

Gender-based violence includes:

- domestic violence, sexual harassment, rape, sexual violence during conflict and harmful customary or traditional practices such as female genital mutilation, forced marriages and honour crimes;
- trafficking in women, forced prostitution and violations of human rights in armed conflict (in particular murder, systematic rape, sexual slavery and forced pregnancy);
- forced sterilisation, forced abortion, coercive use of contraceptives, female infanticide and prenatal sex selection.

6.9 **The Convention of Belem do Pará** defines violence against women:

Article 1: For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.

Article 2: Violence against women shall be understood to include physical, sexual and psychological violence:

a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse;

b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and

c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

6.10 The Bill defines ‘**abuse**’ as ‘physical, sexual, psychological, emotional or financial abuse’. Again this is **very narrow** is exclusive, rather than inclusive, leaving other pervasive acts of violence out of legal regulation. At a minimum, ‘Coercive control’ should be included. The ‘Domestic abuse’ definition is far too wide to become meaningful in law.

6.11 The Bill is peppered with non-compulsory language: ‘may’. It is recommended that ‘may’ is replaced by ‘shall’ in order to progress the statutory duty on local authorities. This includes:

- a) Section 8 (2) (b);
- b) Section 12 (2) changed from ‘The statutory guidance *may* amongst other things, address –’ to ‘must’ to ensure the core guidance is covered across authorities;
- c) Section 20 (2) changed from ‘The Welsh Ministers *may* publish a report sent to them by the Ministerial Adviser that is not mentioned in an approved plan’ should be changed to a ‘must’ to ensure transparency and public scrutiny.

6.12 Gender specific legislation requires targeted action that is broad enough yet focussed enough to address the most pervasive forms of violence against women. The international and UK definitions agreed by the sector and the legal community will ensure a solid legal basis for Welsh legislation; it will ensure compliance with intentional, national and Welsh legal obligations.

7. Recommendations

7.1. The Bill should be placed into a human rights framework that addresses violence against women.

7.2 The Bill should be gender specific, rather than gender neutral.

7.3 The Bill should adopt the internationally agreed definitions.

7.4 All of these factors need to be addressed in gender-specific actions in order to fulfill the aims of the Bill to ‘improve’ women’s lives and to provide equality of outcomes for women in Wales.

7.5 Other considerations concerning the Independent Ministerial Advisor, lack of education provisions and consultation with Health Board alone could not be dealt with here, but their deviation or omission from the direction originally outlined in the White Paper for this Bill is of significant and notable concern.

Paper No:	Issue	From	Action Point
Public papers to note			
9	In-year scrutiny	Minister for Communities and Tackling Poverty	Additional information following the in-year scrutiny session on 19 June 2014
10	In-year scrutiny	Minister for Local Government and Government Business	Additional information following the in-year scrutiny session on 25 June 2014
11	In-year scrutiny	Minister for Natural Resources, Culture and Sport	Additional information following the in-year scrutiny session on 3 July 2014
12	Correspondence	Older People's Commissioner for Wales	Notification of the publication of Section 12 Guidance, Commissioner for Older People (Wales) Act 2006: Best Practice Guidance for Engagement and Consultation with Older People on Changes to Community Services in Wales
13	Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill	Minister for Local Government and Government Business	Additional information following the evidence session on 17 July 2014
Private papers to note			
14	Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill	Assembly Commission Legal Services	Legal advice note

15	Holiday Caravan Sites (Wales) Bill	Assembly Commission Legal Services	Legal advice note
16	Holiday Caravan Sites (Wales) Bill	Assembly Commission Legal Services	Legal advice note

Jeff Cuthbert AC / AM
Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty



Llywodraeth Cymru
Welsh Government

Our reference: MB/JC/2973/14

Christine Chapman AC/AM
Chair
Communities, Equality & Local Government Committee

11 July 2014

Dear Christine

**IN-YEAR SCRUTINY SESSION – REQUEST FOR FURTHER INFORMATION
FOLLOWING THE MEETING ON 19 JUNE 2014**

Thank you for your letter dated 26 June following the in-year scrutiny session held on 19 June 2014.

During my evidence at the scrutiny session, I agreed to provide the Committee with further information in relation to Communities First and Credit Unions, which I set out below:

**Details of the guidance provided to local authorities as part of their scrutiny of
Communities First grant recipients**

Guidance has been provided to all recipients of Communities First funding and is published on the Welsh Government web site, a link is provided below.

<http://wales.gov.uk/topics/people-and-communities/regeneration/communitiesfirst/guidance/?lang=en>

**Details of any increase in Credit Union membership figures following the Welsh
Government's marketing campaign**

The marketing campaign ran for 3 months from the start of April until the end of June this year. The latest membership figures for Credit Unions for the quarter April to June will be submitted to the Welsh Government later this month by Credit Unions. This will be the first opportunity to learn of the increase in membership resulting from this marketing campaign.

The Committee has also requested further information relating to Communities First, Discretionary Assistance Fund, Universal Credit and Credit Union membership targets, which I set out below:

Details of the performance indicators for Communities First

The Communities First programme's performance is measured using the Outcomes Framework. This was published as Annex 5 to the guidance above. A copy of the current framework for 2014/15 is attached.

The Outcomes Framework is being further refined and there is currently work underway to align performance measures across Communities First, Families First and Flying Start for areas where all programmes have work in common.

Details of arrangements for monitoring of the recorded underspend for the Discretionary Assistance Fund

The expenditure levels for the Discretionary Assistance Fund are constantly under review. Management Information is submitted each month to the Welsh Government by Northgate Public Services, who are managing the Discretionary Assistance Fund under contract to the Welsh Government. These reports are discussed at monthly Operational Board meetings held between Northgate Public Services and my officials. These discussions include consideration of expenditure levels which allows us to plan and act accordingly.

A progress report on developments in relation to Universal Credit

The Department for Work and Pensions announced on 30 June that Jobcentres in Hammersmith, Bath, Rugby, Harrogate and Inverness will be taking new claims for Universal Credit from couples as well as those from single jobseekers.

Universal Credit also went live in five more Jobcentres in the North West of England from 30 June 2014.

DWP announced on 20 June their timetable for the expansion of Universal Credit into the North West of England. The roll-out will take place on a weekly basis between the 23 June and 28 July, where individuals in earmarked postcode areas will become eligible. All other eligibility criteria will remain the same as current live Jobcentres i.e. single jobseekers with no dependents.

Universal Credit was rolled out to single jobseekers with no dependents in Shotton, Flintshire on 7 April 2014. The volumes of UC claims are still very low.

The North West England expansion will take place on 28 July with roll-out to a number of postcodes in the Chester area. This is a potential impact on the volumes being experienced at the Shotton Jobcentre with the crossover of postcodes with Chester, where claimants will have to make claims through Shotton Jobcentre.

Monthly statistics are published by DWP on the roll-out of Universal Credit which include an analysis of 'starters' by Jobcentre. The next publication is due on 11 July and will include the first information for Shotton (April 2014).

Local Support Services Framework Robust Trials

On 10 July, Lord Freud, the Minister for Welfare, announced 11 successful joint DWP District and Local Authority bids for LSSF Robust Trials. These include two successful bids for Wales in Blaenau Gwent and Carmarthenshire. The robust trials are due to run for one year commencing on 1 September 2014.

Information about Credit Union membership targets

As at the end of March 2014, adult membership for all Credit Unions in Wales was estimated at 65,000 with total membership, including junior savers, estimated at more than 78,000. Through the Credit Union Project, 17 Credit Unions have helped more than 33,000 adults who meet the definition of being financially excluded to have access to financial products that are simple, transparent and affordable. Since April this year, an additional £1.9 million has been made available to Credit Unions participating in the Project, extending it until March 2017. This funding has targets attached to it, which will be monitored closely by the Welsh Government, and include the number of financially excluded individuals helped as well as information on total membership. Individual targets have been provided to every Credit Union and it is expected that the funding now in place will allow an additional 8,328 members who are financially excluded to be able to access financial services at a Credit Union.

I trust this information will be of use to the Committee.

Yours sincerely



Jeff Cuthbert AC / AM

Y Gweinidog Cymunedau a Threchu Tlodi
Minister for Communities and Tackling Poverty

Lesley Griffiths AC / AM
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MB/LG/2874/14

Christine Chapman AM
Chair, Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

15 July 2014

Dear Christine,

During my appearance at the Communities, Equality and Local Government Committee on 25 June, I undertook to write to you with additional information.

In relation to the possible merger of Local Authorities, the Committee asked about the situation in which one Council inherited a deficit from another. This situation would not occur. There are long-standing statutory duties on Principal Authorities to deliver a balanced budget each year. These duties prevent them from being in a position where they go into deficit. Similarly, Authorities can only enter into borrowing arrangements where they have made clear provision for the repayment of their borrowing.

As part of monitoring the grant to Town and Community Councils for websites, my officials will be writing to all Principal Councils next month to gather information regarding the number of Town and Community Councils who took advantage of the funding available to them. I will share this information with you as soon as possible.

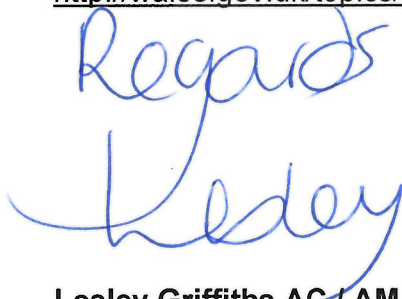
Regarding Town and Community Council long-term vacant Council seats, I will also write to Principal Councils in order to have accurate and up to date information. I will update the Committee in the Autumn. In the meantime, information on vacant seats at Community Council elections from 2012/13 can be found on page 105 of the report by the Commission on Public Service Governance and Delivery.

The Welsh Government carried out a survey of Local Government Councillors and Candidates following the May 2012 elections, I attach a link to the Local Government Candidates Survey Data.

<http://wales.gov.uk/statistics-and-research/local-government-candidates-survey/?lang=en>

I also attach a link to the Expert Group Report on Diversity. Page 15 contains a table of age, gender and ethnicity statistics.

<http://wales.gov.uk/topics/localgovernment/publications/expert-group-report/?lang=en>

A handwritten signature in blue ink, appearing to read 'Lesley Griffiths', with a stylized flourish at the end.

Lesley Griffiths AC / AM

Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business

John Griffiths AC / AM
Y Gweinidog Cyfoeth Naturiol, Diwylliant a Chwaraeon
Minister for Natural Resources, Culture and Sport



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref SF/JG/1974/14
Christine Chapman AM
Chair
Communities, Equalities and Local Government Committee

25 July 2014

Dear Chris,

Thank you for your letter dated 10 July in reference to the Committee meeting I attended on the 3 July. During that general scrutiny session I agreed to provide further information on several issues we discussed and these are set out in full at **Annex 1** below.

I trust that I have addressed the Committee's queries in full and I look forward to continuing to work closely with you in the future.

Best wishes

John Griffiths AC / AM
Y Gweinidog Cyfoeth Naturiol, Diwylliant a Chwaraeon
Minister for Natural Resources, Culture and Sport

1) Provide figures of increases in visitor number to Cadw monuments for the first quarter of this year;

Nearly 400,000 people visited the 30 staffed Cadw monuments in the first quarter of the 2014-15 financial year, a rise of over 7% on last year. The significant rise in April clearly demonstrates the benefit of the Easter holiday period to get the year off to a good start, compared with 2013-14, when there was no Easter period. The good weather over Easter 2014 clearly helped: weather will always be a factor for heritage sites, which tend to be mainly open to the elements.

Visitor Figures Q1	2013-14	2014-15	Trend
April	102,169	133,503	+31%
May	138,478	135,121	-2%
June	120,443	116,930	-3%
Total	361,090	385,554	+7%

Over recent years, footfall counters at Cadw's unstaffed sites have revealed an upward trend in visitor numbers as follows:

2010	750,826 visits
2011	1,086,143
2012	1,079,056
2013	1,108,259

Investment in the offer to visitors

I promised to provide the Committee with information on how investment in visitor facilities and interpretation can deliver results. The positive impact of recent investment in visitor centres and interpretation has been demonstrated at, for example, Denbigh Castle, where the refurbished ticket office and new interpretation has resulted in a 39% increase in visits between 2010-11 and 2013-14.

At Caerphilly Castle, following the installation of new interpretation in 2013, visitor numbers during April 2014 were 12,089 (the highest recorded), which is an increase of 3,132 from the same month in 2013.

Conwy Castle custodians report increased dwell time after an interpretation makeover, and visitor spend from retail sales in its refurbished shop increased by 11% in the first year (2013-14).

Investment in events and activities is as vital to the visitor appeal of heritage sites as capital investment. Hosting the Really Wild Food Festival at St David's Bishop's Palace in May 2013 attracted 5,764 visitors compared with only 198 the year before. A new summer solstice event at Bryn Celli Ddu, Anglesey in June 2014 attracted 750 people.

Customer satisfaction

In the Cadw Visitor Survey 2013, respondents rated their visit for satisfaction and expectation out of 10. The mean score was 9/10, a significant rise from 8.5/10 in 2011, and is reflected in consistently high scores on websites like Trip Advisor.

Since 2011, satisfaction for the suitability of attraction for children has increased considerably. The suitability of exhibits and information for children 8 – 15 has risen by 21% (to 58%) and suitability of exhibits and information for children under 7 has risen by 20% (to 42%). This will increase further as the interpretation programme is rolled out across more sites.

2) Provide details of the work carried out by Cadw so far in relation to reducing their carbon footprint and utility bills;

The Welsh Government has committed to reducing carbon emissions by three percent year on year, with a target reduction of thirty percent by 2020. This is referred to as the Welsh Government's Carbon Reduction Commitment (CRC).

Cadw is reporting annually against the CRC and has delivered a 2% cumulative reduction (against 2010 base year) in its carbon emissions. Given the sensitive archaeological constraints posed by scheduled ancient monuments in State care, the increased demand for electronic interpretation, increased events and commercial activity along with the acquisition of an additional two properties into State care in recent years - this is a significant achievement.

Cadw has implemented many energy and carbon reducing initiatives across its estate. These include:

- Replacement of high-energy floodlights at all floodlit monuments in care with low energy LED units. Developed, designed and implemented by Cadw, this initiative has seen associated energy consumption and carbon emissions reduced by fifty percent. Historic Scotland has studied this initiative and proposes the same project roll-out across its monuments in care three years after Cadw;
- Replacement interior lighting with low energy LED units delivering energy and carbon savings of around eighty percent. These lighting units also produce less heat and reduce the need for air conditioning, providing further savings;
- Installation of smart meters at all Cadw monuments with power for the automatic recording of energy consumption. This permits improved scrutiny of energy consumption allowing corrective action to be taken at areas with greatest energy consumption;
- All new developments and visitor centres are designed and constructed with the principles of the Building Research Establishment Environmental Assessment Method (BREEAM) and include on-site power generation wherever feasible. The visitor centre at Denbigh Castle which opened in 2012 has a Ground Source Heat Pump, natural ventilation, photovoltaic panels and a Building Management System with a live data screen within the visitor area for 'real time' visitor viewing of energy consumed and produced. A similar system was installed in April 2013 during the full refurbishment of the visitor centre at Tintern Abbey where children on school trips can see and learn about how we care for our environment; and,
- Current development works adjacent to Harlech Castle, a World Heritage Site, will provide a new visitor and interpretation centre within the former Castle Hotel. Adaptation and conservation of this Victorian building is core to this project; a significant quantity of carbon emissions, and money, is saved through the retention and reuse of existing buildings such as this. Air Source Heat Pumps are being installed for the heating and cooling of the new facility. Lighting and projected interpretation will be delivered using low energy LED equipment.

The benefit of these initiatives is now being realised. Data (yet to be published) collected through the CRC for the period 2013/14 identifies a year on year reduction in Cadw's Reportable Carbon Dioxide Emissions of twelve percent; this being the highest reduction during 2013/14 of all Welsh Government portfolio areas.

There is a direct correlation between the carbon reduction and the cost of energy; for example, if Cadw reduced its total carbon emissions by 9% (as stated above) - the 12% represents what it is required to report on under the CRC scheme - then its energy costs will reduce (theoretically) by the same 9%.

3) Further information on the work being taken forward with the Minister for Education and Skills on the issue of local authorities needing to ensure contact between schools and libraries in their areas;

Through the recently launched Every Child A Library Member (ECALM) pilot, six public library services in Wales have been working closely with primary schools in their authorities in order to automatically sign up all Year 4 pupils to their local library service. Almost all of the children have been reached during the last 3 months and CyMAL officials met with library representatives from the six authorities and the organisers of the pilot to discuss the work to date and initial findings.

Early feedback is that the children and the majority of schools and teachers have been very enthusiastic about the pilot and there are initial indications that library use and borrowing of books has already increased. Using libraries can help schools with many important agendas, particularly literacy, tackling poverty and digital skills. The ECALM project is an excellent way for schools and libraries to work more closely together to help foster a love for reading for pleasure and to help improve literacy skills.

This pilot scheme was discussed at a bilateral I had with the Minister for Education and Skills in November 2013.

Initial feedback from the six pilot authorities indicated that they faced some challenges in working with colleagues in their local education departments in obtaining access to the necessary data, access to the schools, distributing the library cards and also arranging class visits. Although some schools and personnel were very helpful and enthusiastic, there was an overall picture of difficulty.

It would therefore be an excellent opportunity to strengthen contact between schools and libraries.

4) Provide the figures for Welsh Government investment in museums outside Cardiff;

The Welsh Government invests directly in museums across Wales in two main ways: core-funding Amgueddfa Cymru – National Museum Wales (AC-NMW), a Welsh Government Sponsored Body (WGSB), and support via CyMAL for local museums.

Funding for AC-NMW is used to operate seven sites across Wales, including two in Cardiff (National Museum Cardiff and St Fagans) and five outside (National Roman Legion Museum Caerleon, Big Pit, National Wool Museum, Drefach, National Slate Museum, Llanberis and National Waterfront Museum, Swansea) as well as the central support costs for the organisation which cannot be disaggregated by site, such as the Collections, Research and Learning divisions.

In 2014-15 the Welsh Government is providing £22,436,000 in revenue funding to AC-NMW, as well as £2,993,000 capital (£1,855,000 of which is for the St Fagans redevelopment project). £4,356,100 of WG grant-in-aid was used specifically to support the operation of those sites outside of Cardiff. This figure excludes the considerable costs of those divisions based centrally in Cardiff but from which support is provided to sites across Wales.

CyMAL investment in local museums is predominantly via grants which are normally claimed in arrears. Three local museums in Cardiff are accredited and therefore eligible for CyMAL grants: Cardiff Castle, the Cardiff Story and Firing Line. In 2014-15, a total of £419,976 has been allocated outside Cardiff and £10,000 allocated in Cardiff (to the Cardiff Story).

Between 2004, when CyMAL was established, to the end of 2013/14, £4.6 million was invested in local museum projects across Wales.

£4 million of this went to local museums outside Cardiff and £0.5 million was awarded to 'all Wales' projects from which Cardiff museums may have benefitted.

In addition to grants, CyMAL has also funded a small programme of Access audits and retail assessments (total cost £28,656 over two years 2012 /14). No museums in Cardiff have so far been involved. CyMAL also invests in local museums by funding participation of all 88 accredited local museums in Visit Wales' Visitor Attraction Quality Assurance Scheme, and provision of a training programme.

5) Details of the research undertaken in relation to the health risks of sedentary adults in different socio-economic groups

Sport Wales has commissioned large scale surveys of adult participation levels in sport and leisure in Wales since 1987. This data is collected biennially and has formed a base from which to develop and inform further research, policy, planning and programmes. The survey data enables Sport Wales to further understand the motivations, barriers and unmet demand for sports participation amongst adults in Wales.

The results show that we have bucked the long term trend in adult participation with 262,000 more adults 'hooked on sport' and that there are clear links between more regular participation and physical and mental health.

The data suggests that sport is contributing to the future health of the nation and tackling the challenges we face around preventable illnesses such as obesity. We have also seen increases in participation across the board, but there remain participation gaps, which also reflect those highlighted by the School Sport Survey. Sport Wales' recent £3million investment announcement in the Calls4Action programme is specifically designed to tackle these gaps

The Survey demonstrates a clear link between enjoyment, being hooked at school and participation in adulthood. This supports the call for greater focus on physical literacy and raising the profile of PE in schools. I feel collaboration across sectors and shared outcomes, such as those being delivered by Communities First are key to delivering greater participation in the future.

Sport Wales' Active Adults survey shows that participation in sport has increased from 56% in 2008-09 to 70% in 2012 and that 39% of adults are 'hooked on sport', meaning they participate more than three times a week, an increase of 10 percentage points.

6) Clarification of the extent to which sports facilities are included in the play sufficiency assessments carried out by local authorities.

You may find the following information useful:

Under Matter C (Space available for children to play) of the Play Sufficiency Assessment, the Local Authority should recognise that all open spaces, including those which whilst not owned by them, are accessible to the public within their area, are potentially important areas where children can play or pass through to reach other playable areas or places where they go.

As part of Play Sufficiency Assessments Local Authorities should draw upon existing Open Space Assessments and other local sources of information to map areas that are used for play or could potentially be used for play. The open spaces considered should include those set out in the Welsh Government Planning Policy Wales and Technical Advice Note (TAN) 16 "Sport, Recreation and Open Space"; Technical Advice Note (TAN) 12 "Design" and Creating an Active Wales (2009) as well as brown field sites; residential streets; and school grounds.

Sports facilities fall under the list in Matter C of Outdoor unstaffed designated play spaces. The Local Authority should take into account in its assessment recreation (sports) fields (natural and artificial) and Matter D (Supervised provision).

In March 2013, Local Authorities submitted to the Welsh Government their Play Sufficiency Assessments (PSAs) and Action Plans.

The Play Sufficiency Assessments identified whether or not local authorities recognise the importance of playing fields to children's opportunities to play and include children, young people and their families in any consultations on such decisions. It was reported that Local Authorities are working towards this goal.

The Play Sufficiency Assessments also acknowledged that supervised play provision is part of the delivery of Core Aim 4 for sport, leisure and culture, and of the local "Creating an Active Wales Plan".

7) Further information on the Arts Council's response to the Minister's 2014 – 15 remit letter which asked them to provide a written update on cuts to local authority arts budgets;

At Committee I agreed to provide a copy of the update I have received from the Arts Council of Wales in respect of the commitment within my Remit Letter to ACW that they provide a written update on the impact of cuts to local authority arts budgets. This is attached at **Annex 2**.

You will wish to note that reductions to arts budgets have not yet been fully implemented across all local authorities and the full scale and impact of these cuts have, therefore, not yet been fully assessed. In light of this, I have agreed with ACW that they delay submission of a full assessment of these cuts until the picture becomes clearer. This assessment will now be undertaken in October and I will provide the Committee with further details of this report in due course.

8) Further information on the long term viability of the 'Llyfrau Llafar Cymru/Talking Books Wales' initiative;

Following the Committee meeting I have brought to the attention of the First Minister and the Minister for Health and Social Services the issues raised by Rhodri Glyn Thomas AM in relation to Llyfrau Llafar Cymru.

During the 2011-12 financial year Llyfrau Llafar Cymru received funding of £35,000 from the Welsh Government to assist Llyfrau Llafar Cymru in the transition arrangements as a voluntary organisation independent of the North Wales Society for the Blind.

9) Further information on any impact of the discontinuation of the Community Radio Fund;

The Community Radio Fund (CRF) was established in 2008 in recognition of the important role played by community radio stations within their communities. It was set up as a five year Fund with the specific aim of helping to meet the core costs of running community radio stations. Being a five year Fund, the CRF was due to come to an end in 2012-13 but a decision was taken to extend it for a further year, giving community radio stations an opportunity to investigate alternative sources of funding and to prepare to become self-sufficient post March 2014.

During the final year of the Fund the Welsh Government liaised closely with all community radio stations that were in receipt of a grant from the CRF to advise them of other pots of funding which may be available from the Welsh Government. The community radio stations were alerted to the launch of the Community Facilities Programme on 3 February. In addition, the Minister for Communities and Tackling Poverty announced on 22 January that voluntary organisations that provide services to communities across Wales were to benefit from £7.2 million of new Welsh Government funding this year. Dependant upon whether they met the relevant criteria, some community radio stations could have been eligible to access funding from those schemes.

In February 2014 the Department for Culture, Media and Sport published a consultation on community radio. Recommendations included:

- Lifting the restrictions which prevent some community radio stations from taking any income from on-air advertising or sponsorship if they overlap with a commercial radio license whose coverage includes 150,000 adults or fewer.
- Lifting the restrictions which prevent community radio stations from taking more than 50% of their annual income from on-air advertising and sponsorship.

The Welsh Government responded to that consultation stating that it welcomed any relaxation of the restrictions and/or changes to the restrictions which would assist community radio stations affected by the regulations, to enable them to continue to provide the valuable service they offer within their communities.

The Welsh Government has not been made aware that any community radio station in Wales has ceased to operate as a direct result of the closure of the Welsh Government's Community Radio Fund.

10) Further information on any impact of the reduction in funding provided to the Welsh Books Council.

In considering budget allocations, difficult decisions have had to be taken across the Natural Resources, Culture and Sport portfolio. Naturally the impact of the reductions in funding for the Welsh Books Council was considered in detail in the same way as the other bodies within the portfolio.

The Welsh Books Council is a relatively small organisation within a small portfolio therefore reductions to its grant will inevitably have a significant impact on the services the Council can provide.

I am however conscious that the budget allocation for the Welsh Books Council is very challenging. But I am confident that the Welsh Books Council will be able to continue to support the publishing industry in both languages.

So far the Welsh Books Council has accommodated the cuts without impacting on book sales. This was reflected in the fact that sales through the Welsh Books Council during the 2013-14 financial year showed an increase of 5% on the previous year. Obviously in the future we have to recognise the risk of impact to programmes arising from further cuts.



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Mount Stuart Square
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Adeiladau Cambrian
Sgwar Mount Stuart
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To: Christine Chapman AM, Chair, Communities, Equality and Local Government Committee
CC: Sarah Beasley, Clerk, Communities, Equality and Local Government Committee

10th July 2014

Dear Christine,

Publication of Section 12 Guidance, Commissioner for Older People (Wales) Act 2006: Best Practice Guidance for Engagement and Consultation with Older People on Changes to Community Services in Wales

I write to inform you that I have this week published new Guidance, issued under Section 12 of the Commissioner for Older People (Wales) Act¹. The purpose of the Guidance, entitled 'Best Practice Guidance for Engagement and Consultation with Older People on Changes to Community Services in Wales', is to support Local Authorities to ensure full and meaningful engagement with older people when key decisions are being made regarding community services.

The Section 12 Guidance is to ensure that Local Authorities are paying due regard in law and are fully compliant with their legal commitments when proposals are made to change essential community services.

In addition, I have published a new Toolkit for older people. The new Toolkit, entitled 'Effective Engagement with Local Authorities: Toolkit for Older People', has been published as a practical tool to help older people ensure their views are heard by their Local Authorities, and that their views are fully reflected in any changes taking place to community

services. The Toolkit is supported by a Local Authority Information Database on Community Services, including useful contact information and weblinks to key documents produced by Local Authorities.

The Section 12 Guidance, Toolkit, and Information Database may be found on the 'Publications' section of my website:

<http://www.olderpeoplewales.com/en/publications.aspx>. I have written to all Assembly Members to inform them about the Section 12 Guidance, and I would be grateful for your support in disseminating the publications within your Committee.

I understand the significant budgetary pressures on Local Authorities and that many difficult decisions will need to be made, however I am clear that older people must be fully involved in the design, development and delivery of community services, vital community assets that not only are essential for their health, independence and wellbeing, but are also integral to the delivery of emerging policy agendas within Wales.

I have previously discussed with you the proposal to launch a Committee Inquiry on the impact of changes to community services in Wales on older people and others, and I would welcome the opportunity to discuss this proposal further with you. I also welcome your support for these publications and I look forward to continue working with you to develop essential services that meet the needs of older people across Wales.

Please do not hesitate to contact me or my Communities, Local Government and Wellbeing Lead, Iwan Williams (iwan.williams@olderpeoplewales.com, 02920 445 045) to discuss the Section 12 Guidance and other publications in further detail.

Best wishes,

A handwritten signature in black ink that reads "Sarah Rochira". The signature is written in a cursive, flowing style.

Sarah Rochira
Older People's Commissioner for Wales

Lesley Griffiths AC / AM
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: LF/LG/0752/14

Christine Chapman AM
Chair
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

31 July 2014

Dear Christine,

**GENDER-BASED VIOLENCE, DOMESTIC ABUSE AND SEXUAL VIOLENCE (WALES)
BILL – CELG COMMITTEE – REQUEST FOR FURTHER INFORMATION**

Thank you for inviting me to the Communities, Equality and Local Government Committee on 17 July 2014 to give evidence in relation to the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill.

Peter Black AM asked a question relating to the sanctions a court could impose on a relevant Authority if they failed to comply with a direction issued by the Welsh Ministers under Section 16 of the Bill and whether they could be fined.

My officials explained to the Committee, a court would order the relevant Authority to comply with the direction and in the event of further non-compliance with the court order, the court could impose a sanction on the relevant authority through contempt of court proceedings.

It was also explained to the Committee, pursuing this course of action would very much be a last resort. I do not foresee using the power of direction on a regular basis. I would prefer to adopt a collaborative approach and use the role of the Ministerial Adviser to assist and work with any Authority which sought to depart from the guidance issued under section 12 but could not provide good reason for doing so.

However, in order to clarify the position, below are examples of how it is envisaged the guidance provisions would work and an explanation of how the direction making power would then function in practice.

Example:

- Guidance is issued by the Welsh Ministers under section 12 of the Bill and by virtue of section 14, relevant Authorities must follow the course set out in the guidance;
- A relevant Authority thinks there is good reason for it not to follow the guidance in particular categories of case or at all. It decides on an alternative policy and issues a policy statement to this effect outlining the alternative policy and the rationale for departing from the guidance;
- The Welsh Ministers consider the alternative policy published and followed by the relevant authority and decide it is not likely to contribute to the pursuit of the purpose of the Bill;

Effect of provisions:

- The Welsh Ministers under section 16(2) direct the relevant authority to take appropriate action for the purpose of securing the exercise of functions by the authority in accordance with the guidance issued to the authority under section 12;
- Section 16(3) of the Bill requires the relevant authority to comply with the direction;
- The relevant authority decide not to comply with the direction;
- The Welsh Ministers make an application to the court for a mandatory order requiring compliance with the direction as set out in section 16(4). The mandatory order would contain a penal notice – setting out disobedience would be a contempt of court punishable by imprisonment, a fine or sequestration of assets;
- A failure to comply with the terms of a mandatory order issued by the court would result in the authority being in contempt of court. In the event of non-compliance the Welsh Ministers could make an application to the court and it would be a matter for the court what punishment to impose on a relevant authority which is found in contempt.

These are the options available to the Welsh Ministers; however it is not the intention to adopt such a course of action except in the most extreme cases. I would seek to work with relevant authorities, using the expertise of the Ministerial Adviser, to seek to resolve any issues. Only when all other avenues have been exhausted would I consider resorting to the courts.

I trust this additional information will assist Members in their scrutiny of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill. Please do not hesitate to contact me should you or any other Member have any further queries or require any further information on any aspect.

Regards,



Lesley Griffiths AC / AM

Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business

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By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 7

By virtue of paragraph(s) vi of Standing Order 17.42

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**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM
(MEMORANDUM NO. 4)**

**DEREGULATION BILL: AMENDMENT IN RELATION TO TENANCY
DEPOSIT LEGISLATION**

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within, or modifies the legislative competence of the National Assembly.
2. The Deregulation Bill (“the Bill”) was introduced in the House of Commons on 23 January 2014. The Bill can be found at:

<http://services.parliament.uk/bills/2013-14/deregulation.html>

Summary of the Bill and its Policy Objectives

3. The Bill is sponsored by the Cabinet Office. The UK Government’s policy objectives for the Bill are to remove or reduce unnecessary regulatory burdens that hinder or cost money to businesses, individuals, public services or the taxpayer.
4. The Bill includes measures relating to general and specific areas of business, companies and insolvency, the use of land, housing, transport, communications, the environment, education and training, entertainment, public authorities and the administration of justice. The Bill also provides for a duty on those exercising specified regulatory functions to have regard to the desirability of promoting economic growth. In addition, the Bill will repeal legislation that is no longer of practical use.

Provisions in the Bill for which consent is sought

5. The consent of the Assembly is sought to the amendment to the Deregulation Bill, tabled on 16 June 2014, which makes amendments to add four sections to Chapter 4 of Part 6 of the Housing Act 2004 (Tenancy Deposit Schemes). The amendment was tabled by Tom Brake MP, Deputy Leader of the House of Commons and Oliver Heald QC MP, Solicitor General. The amendment reference is NC20.
6. These Tenancy Deposit Scheme amendments follow a Court of Appeal decision in 2013¹ which interpreted existing tenancy deposit legislation differently from its original intention and accompanying Government guidance. The decision concerned a tenancy which commenced shortly before the commencement of mandatory deposit protection legislation in

¹ *Superstrike Ltd v Rodrigues* [2013] EWCA Civ 669

2007. The decision means that where a fixed term shorthold tenancy came to an end and was replaced with a statutory periodic tenancy, landlords should have registered the deposit with a tenancy deposit protection scheme and issued information relating to the scheme to the tenants². This decision meant that landlords in this situation may be subject to sanctions for not complying with the tenancy deposit legislation, despite following Government guidance. The penalties for breach of these obligations by the landlord results in two alternative but simultaneously available sanctions: (a) a landlord cannot serve a s.21 notice to terminate the tenancy for so long as he or she had failed to comply with those requirements³; and (b) a tenant would be entitled to both the return of the deposit and a compensatory sum equivalent to three times that deposit's value⁴. This means that landlords may be unable to evict a tenant, or be at risk of court action and financial penalties, despite following Government guidance. The amendment tabled on 16 June is intended to remove this risk.

7. Having these amendments apply to Wales will mean the risk of court action and fines for letting agents and landlords in Wales, and the risk of an eviction notice by the landlord being frustrated, are removed in the same way as for letting agents and landlords in England in regard to these elements of tenancy protection legislation. At the same time agreeing to these amendments will not disadvantage tenants in Wales but mean the tenancy deposit legislation across England and Wales operates in the way it was intended to work.
8. The amendments are to Chapter 4 of Part 6 of the Housing Act 2004 (Tenancy Deposit Schemes). After section 215, the amendment inserts sections 215A to 215D which provide for the following:
 - **Section 215A Statutory periodic tenancies: deposit received before 6 April 2007.** This applies to cases where a tenancy deposit was received in connection with a fixed term tenancy prior to 6 April 2007 and, on or after that date, a statutory periodic tenancy arose on the expiry of the fixed term tenancy.
 - Subsection (2) provides that in cases where the periodic tenancy is still in existence as at the date of commencement of this section and some or all of the deposit paid in connection with the fixed term tenancy continues to be held by the landlord in connection with the periodic tenancy, the tenancy deposit protection requirements do apply. However, the landlord has an extended period within which to comply with those requirements.
 - Subsection (3) provides that instead of the landlord being required to comply with the tenancy deposit requirements at the start of the statutory periodic tenancy, a date which is likely to have long

² Section 213(3), (5) and (6) of the Housing Act 2004

³ Section 215 of the Housing Act 2004

⁴ Section 214 of the Housing Act 2004

passed in such cases, there is an extended period within which to comply. This is any time prior to the date which is 90 days after commencement of the new provisions or, if earlier, at any time prior to the date on which a court determines an application for penalties under section 214 of the 2004 Act (where the requirements relating to the deposit under section 213 have not been complied with) or determines whether to make a possession order under section 21 of the Housing Act 1988 (or decides an appeal against either type of determination).

- Subsection (4) provides that in cases where, at the time this clause is commenced, the landlord no longer holds any deposit in connection with the periodic tenancy or the tenancy has ended, the landlord will be treated as having complied with the requirements in section 213(3), (5) and (6) of the 2004 Act. By virtue of new section 215D(1), this section is treated as having had effect since 6 April 2007 subject to the exceptions provided for in the remainder of section 215D.
- **Section 215B - Statutory periodic tenancies: deposit received on or after 6 April 2007.** This section concerns cases where a deposit is received on or after 6 April 2007 in connection with a fixed term tenancy and, at the expiry of the fixed term, the tenant continues to occupy the property under a statutory periodic tenancy arising under section 5 of the Housing Act 1988. The effect of this section is that where the tenancy deposit requirements are complied with in relation to the deposit held in connection with the fixed term tenancy, then as long as the deposit continues to be held in the same authorised tenancy deposit scheme when the statutory periodic tenancy arises, the landlord will be treated as having complied with the tenancy deposit protection requirements afresh at the start of the statutory periodic tenancy.
- **Section 215C - Renewed fixed term or contractual periodic tenancies: deposit received on or after 6 April 2007.** This section is similar to new section 215B but concerns cases where a deposit is received on or after 6 April 2007 in connection with an assured shorthold tenancy and, at the end of that tenancy, the same landlord grants the same tenant a new fixed term tenancy or a new contractual periodic tenancy in respect of the same premises, i.e. the landlord expressly renews the tenancy. The effect of this section is that where the tenancy deposit requirements are complied with in relation to the deposit held in connection with the earlier tenancy, then as long as that deposit continues to be held in accordance with the same authorised tenancy deposit scheme from one tenancy to the next, the landlord is not required to re-issue the same prescribed information to the tenant at the start of each new, renewed tenancy, the requirements of section 213(5) and (6) will be treated as if they have been complied with.

- **Section 215D - Sections 215A to 215C: transitional provisions.**
Section 215D provides that new sections 215A to 215C are to be treated as having had effect since 6 April 2007, the date on which tenancy deposit provisions in the 2004 Act came into force. However, subsection (2) provides that they do not have effect in relation to legal proceedings under section 214 of the 2004 Act or section 21 of the Housing Act 1988 which have either been finally determined by a court or settled between the parties prior to the date on which this clause comes into force. Further transitional provisions are made by this section in relation to ongoing proceedings.

9. All the provisions outlined above apply in relation to Wales.

10. The amendment to the Deregulation Bill described above inserts sections 215A to 215D into the Housing Act 2004. This amendment to the Deregulation Bill does not provide any powers for the Welsh Ministers to make subordinate legislation.

11. It is the view of the Welsh Government that these provisions fall within the legislative competence of the National Assembly for Wales in so far as they relate to tenancy deposit schemes under paragraph 11 of Part 1, Schedule 7 to the Government of Wales Act 2006.

Advantages of utilising this Bill rather than Assembly legislation

12. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. The inter-connected nature of the Tenancy Deposit legislation, and the fact that the schemes are run on an England and Wales basis, overseen by the Department for Communities and Local Government, mean that it is most effective and appropriate for the Bill provisions for both to be taken forward at the same time in the same legislation.

Financial implications

13. There are no financial implications for the Welsh Government.

Carl Sargeant AM
Minister for Housing and Regeneration
June 2014

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