

Agenda – Y Pwyllgor Plant, Pobl Ifanc ac Addysg

Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – y Senedd	Llinos Madeley
Dyddiad: Dydd Iau, 2 Mai 2019	Clerc y Pwyllgor
Amser: 09.00	0300 200 6565
	SeneddPPIA@cynulliad.cymru

Rhag-gyfarfod preifat

(09.00 – 09.20)

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

(09.20)

2 Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru) – Sesiwn dystiolaeth 1

(09.20 – 10.30)

(Tudalennau 1 – 39)

Llywodraeth Cymru

Julie Morgan AC, y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol

Dirprwy Gyfarwyddwr Yr Is-adran Plant a Theuluoedd

Emma Gammon, Cyfreithiwr

Dogfennau atodol:

Briff Ymchwil

CYPE(5)-13-19 – Papur 1

Egwy!

(10.30 – 10.40)

3 Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru) – Sesiwn dystiolaeth 2

(10.40 – 11.40)

(Tudalennau 40 – 48)

Byddwch yn Rhesymol Cymru

Jamie Gillies, Ilefarydd dros Byddwch yn Rhesymol



Sally Gobbett, Rhiant/Ymgyrchydd

Dogfennau atodol:

CYPE(5)-13-19 – Papur 2 (Saesneg yn unig)

4 Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru) – Sesiwn dystiolaeth 3

(11.40 – 12.40)

(Tudalennau 49 – 60)

Rhwydwaith Amddiffyniad Cyfartal Cymru (*Sefydliad olynol i'r gynghrair Does Dim Curo Plant Cymru*)

Andy James, Cadeirydd dros dro – Rhwydwaith Amddiffyniad Cyfartal Cymru

Catriona Williams, OBE, Prif Swyddog Gweithredol – Plant yng Nghymru

Vivienne Laing, Rheolwr Polisi a Materion Cyhoeddus – NSPCC Cymru/Wales

Menna Thomas, Cyfarwyddwr Cynorthwyol (Polisi) – Barnardo's Cymru

Dr Katherine Shelton, Uwch-ddarlithydd Seicoleg, Prifysgol Caerdydd ac
aelod o Academyddion dros Amddiffyniad Cyfartal.

Dogfennau atodol:

CYPE(5)-13-19 – Papur 3 (Saesneg yn unig)

Egwyl cinio

(12.40 – 13.10)

5 Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru) – Sesiwn dystiolaeth 4

(13.10 – 13.55)

(Tudalennau 61 – 73)

Swyddfa Comisiynydd Plant Cymru

Sally Holland, Comisiynydd Plant Cymru

Rachel Thomas, Pennaeth Polisi a Materion Cyhoeddus

Dogfennau atodol:

CYPE(5)-13-19 – Papur 4 (Saesneg yn unig)

6 Papurau i'w nodi

(13.55)

6.1 Llythyr gan y Gweinidog Addysg – y wybodaeth ddiweddaraf am ddata cyrhaeddiad Cyfnod Allweddol 4 ar gyfer 2018

(Tudalennau 74 – 81)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 1

6.2 Llythyr gan y Gweinidog Addysg – y Cod drafft ar Anghenion Dysgu Ychwanegol

(Tudalennau 82 – 83)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 2

6.3 Llythyr at y Gweinidog Iechyd a Gwasanaethau Cymdeithasol – Darpariaeth CAMHS ar gyfer cleifion mewnol

(Tudalennau 84 – 85)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 3

6.4 Llythyr at y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol – Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

(Tudalennau 86 – 89)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 4

6.5 Llythyr gan y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol – Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

(Tudalennau 90 – 91)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 5

6.6 Llythyr gan y Gweinidog Addysg – y wybodaeth ddiweddaraf am y rhaglen trawsnewid Anghenion Dysgu Ychwanegol (ADY)

(Tudalennau 92 – 94)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 6

6.7 Llythyr gan Gadeirydd Pwyllgor yr Economi, Seilwaith a Sgiliau – Ymchwil ac Arloesedd yng Nghymru

(Tudalen 95)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 7

6.8 Llythyr gan Brif Weinidog Cymru – Gwella canlyniadau i blant mewn gofal

(Tudalen 96)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 8

6.9 Llythyr gan Gadeirydd y Pwyllgor Deisebau – Deiseb P-05-872 – Dylid diogelu cyllid ysgolion neu gyfaddef bod y gwasanaeth a ddarperir yn gwanhau

(Tudalen 97)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 9

6.10 Llythyr gan Sefydliad Prydeinig y Galon – Pryderon ynghylch y cwricwlwm newydd

(Tudalennau 98 – 100)

Dogfennau atodol:

CYPE(5)-13-19 – Papur i'w nodi 10 (Saesneg yn unig)

7 Cynnig o dan Reol Sefydlog 17.42(ix) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

8 ChilBil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru) – trafod y dystiolaeth

(13.55 – 14.00)

9 Ymchwiliad i Gyllido Ysgolion – trafod y prif faterion

(14.00 – 15.00)

(Tudalennau 101 – 149)

Dogfennau atodol:

Papur preifat

Mae cyfyngiadau ar y ddogfen hon

Julie Morgan AC/AM
Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services



Ein cyf/Our ref MA-L/JM/0382/19

Llywodraeth Cymru
Welsh Government

Lynne Neagle AC
Cadeirydd
Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru
Tŷ Hywel
Bae Caerdydd
Caerdydd
CF99 1NA

25 Ebrill 2019

Annwyl Lynne,

Diolch i chi am eich llythyr dyddiedig 5 Ebrill yn gofyn am eglurhad ynghylch rhai pwyntiau penodol mewn perthynas â Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru).

Hyderaf y bydd yr wybodaeth a ddarperir yn yr Atodiad i'r llythyr hwn o ddefnydd i'r Pwyllgor. Edrychaf ymlaen at drafod â'r Pwyllgor ar 2 Mai sut bydd y Bil yn diogelu hawliau plant.

Yn gywir,

A handwritten signature in black ink that reads "Julie Morgan".

Julie Morgan AC/AM
Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Correspondence.Julie.Morgan@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and responding in Welsh will not lead to a delay in responding.

ATODIAD

Ymosod a churo

“Ar wahanol bwyntiau yn y Memorandwm Esboniadol (e.e. paragraff 1.1 a pharagraff 1.4) dywedir bod y Bil yn diddymu'r amddiffyniad cosb resymol fel amddiffyniad i ymosod ar blentyn neu'i guro. Mae adran 1 o'r Bil yn dileu'r amddiffyniad o gosb resymol mewn perthynas â chosb gorfforol i blentyn gan rieni neu'r rheini sy'n gweithredu in loco parentis. Diffinnir cosb gorfforol yn adran 1(5) o'r Bil i olygu curo a wneir fel cosb. A allwch gadarnhau sut y caiff yr amddiffyniad ei ddileu mewn achosion o ymosodiad?”

Mae'r dull sy'n cael ei nodi yn y Bil yn gyson â'r hyn a ddigwyddodd mewn perthynas â chosb gorfforol mewn ysgolion drwy adran 548 o Ddeddf Addysg 1996. Nid ydym yn ymwybodol o unrhyw awgrym neu bryder fod adran 548 wedi caniatáu'r posibilrwydd y gallai athrawon ddefnyddio'r amddiffyniad fod bygythiadau i gosbi disgylion yn gorfforol yn gyfreithlon.

I ymosodiad ddigwydd, rhaid i berson ofni bod trais neu rym anghyfreithlon yn mynd i gael ei ddefnyddio ar unwaith. Felly, yn dilyn hynny, nid yw ofni bod gym *cyfreithlon* yn mynd i gael ei ddefnyddio ar unwaith yn ymosodiad (er enghraifft rhagweld gwrthdrawiad mewn gêm o rygbi; lle bo cydsynio i gymryd rhan yn peri i'r cysylltiad fod yn un cyfreithlon). Ar hyn o bryd, mae'n bosibl i unrhyw weithred sy'n achosi i blentyn ofni ei fod yn mynd i gael smacen, er enghraifft, gael ei amddiffyn a bod yn gyfreithlon, drwy gyfeirio at yr amddiffyniad presennol (a bwrw bod yr oedolyn dan sylw yn rhiant neu in loco parentis).

Bydd diddymu'r amddiffyniad mewn perthynas ag unrhyw fath o gosb gorfforol, ni waeth beth fo lefel y niwed a achosir, yn golygu y bydd pob gweithred sy'n gyfystyr â churo a ddiffinnir yn adran 1 o'r Bil yn anghyfreithlon. Felly, yn fras, ni all unrhyw weithred sy'n achosi i rywun ofni bod 'cosb gorfforol' yn mynd i gael ei defnyddio ar unwaith gael ei amddiffyn mewn perthynas â honiad o ymosodiad neu o dresmasu yn erbyn y person. Mae'r rhngweithio rhwng, ar y naill law, ddiddymu'r amddiffyniad drwy statud mewn perthynas â math penodol o guro, ac ar y llall, y gyfraith gyffredin bresennol mewn perthynas ag ymosod, yn cyflawni'r canlyniad cywir.

Hynny yw, ar ôl i'r amddiffyniad gael ei ddiddymu mewn perthynas â churo sy'n gyfystyr â chosb gorfforol, ni all ymosodiad drwy fygythiad o gosb gorfforol o unrhyw fath yn dilyn hynny (a fydd yn anghyfreithlon pan fydd y Bil yn dod i rym, ni waeth pa mor ddifrifol yw'r gosb) gael ei amddiffyn mewn achosion cyfreithiol.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Gweithredu ac anghenion hyfforddi

“Pa asesiad / trafodaethau sydd wedi digwydd gyda CAFCASS am effaith ddisgwylledig y Bil hwn ar eu gwaith a'u rhestr achosion, o ran achosion cyfraith gyhoeddus a phreifat?”

Mae swyddogion wedi cynnal trafodaethau rheolaidd â Cafcass Cymru ynghylch effaith bosibl y Bil ar eu gwaith. Mae Cafcass Cymru eisoes yn ymateb i honiadau a wneir drwy wahanu cyplau mewn achosion cyfraith preifat. Mae hwn yn fater cymhleth ac mae gweithwyr proffesiynol eisoes yn gwneud penderfyniadau cytbwys i sicrhau bod plant yn cael eu cadw'n ddiogel, a'u bod yn gallu cynnal perthynas â'r ddau riant pan fo gwneud hynny'n ddiogel ac er budd y plentyn. Nid yw'r Bil yn newid hynny.

Nid oes cysail yn y Deyrnas Unedig (DU) i ddiddymu'r amddiffyniad, ac felly mae'n anodd darogan yr union effaith. Mae'n bosibl y bydd effaith ar lwythi achosion, ar y dechrau o leiaf, oherwydd y cynnydd o ran ymwybyddiaeth gyhoeddus a phroffesiynol o'r mater.

Byddwn yn parhau i gydweithio'n agos â Cafcass Cymru i ystyried sut y gallwn fonitro effaith y Bil. Caiff cynrychiolydd o Cafcass Cymru ei wahodd i fod yn rhan o'r Grŵp Gweithredu sy'n cyfarfod ar 14 Mai. Bydd gwaith y Grŵp yn ein helpu i ddatblygu prosesau monitro ac adrodd ar gyfer gwerthuso effeithiau'r newid yn y gyfraith yn y dyfodol (os caiff y Bil ei basio).

Rwy'n cydnabod bod gwahanu plant oddi wrth eu rhieni yn effeithio ar nifer o blant a'u teuluoedd. Os yw'r sefyllfa'n cael ei thrin yn dda, mae'r effaith andwyol yn cael ei lleihau. Yn 2017, roedd Llywodraeth Cymru wedi darparu £32,000 i sicrhau bod cwrs Cafcass Cymru, sef Gweithio Gyda'ch Gilydd Er Lles Plant, ar gael i fwy o rieni. Mae'r cwrs hwnnw'n helpu rhieni i ddeall y ffordd orau o gydweithio i gefnogi eu plant yn ystod y broses wahanu ac wedi hynny.

“Pa asesiad / trafodaethau a gynhalwyd gyda chynrychiolwyr y farnwriaeth (y farnwriaeth sifil, y farnwriaeth teulu a'r farnwriaeth droseddol) ynghylch yr anghenion hyfforddi a materion trawsffiniol sy'n codi o weithredu'r Bil hwn?”

Roedd swyddogion wedi cyfarfod â chynrychiolwyr o Wasanaeth Llysoedd a Thribiwnlysoedd Ei Mawrhydi (GLITEM) ym mis Gorffennaf 2018, ac mae cyfarfod arall wedi'i drefnu ym mis Ebrill 2019.

Roedd cydweithwyr GLITEM wedi rhoi sylw i bwysigrwydd feithrin cysylltiadau ar draws y system gyfiawnder gyfan. Roeddent wedi cynnig nifer o awgrymiadau i feithrin cysylltiadau a chodi ymwybyddiaeth a fydd yn cael eu hystyried drwy waith y Grŵp Gweithredu.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Mae'r Arglwydd Brif Ustus yn gyfrifol am drefnu hyfforddiant y farnwriaeth yng Nghymru a Lloegr. Mae'r cyfrifoldebau hynny'n cael eu harfer drwy'r Coleg Barnwrol. Mae gan Lywodraeth Cymru ymrwymiad i ymgynghori â'r Arglwydd Brif Ustus ac ymgysylltu â'i Swyddfa Farnwrol mewn perthynas â chynigion sy'n achosi newidiadau i'r gyfraith trosedd neu a allai gael effaith ar weithredu'r farnwriaeth a system y llysoedd a'r tribiwlysoedd. Fel sy'n digwydd yn achos pob Bil, mae Swyddfa'r Arglwydd Brif Ustus wedi cael ei hysbysu am y cynigion hyn, ac maent yn ymwybodol bod y Bil wedi'i gyflwyno.

Mae cynrychiolydd o GLITEM wedi'i wahodd i fod yn rhan o'r Grŵp Gweithredu sy'n cyfarfod ar 14 Mai, a fydd yn ystyried yr anghenion hyfforddiant posibl a materion trawsffiniol.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

“A fydddech cystal â rhoi rhagor o fanylion ar:

Yr asesiadau a gynhaliwyd mewn perthynas ag argaeledd Cyfryngwyr Cofrestredig y mae paragraff 28 o Atodiad 4 o'r Memorandwm Esboniadol yn nodi y mae'n 'rhaid ystyried' eu defnyddio 'ar gyfer pob achos sy'n ymwneud â thyst sy'n blentyn.'”

“Y cyfeiriad ym mharagraff 29 o Atodiad 4 o'r Memorandwm Esboniadol at brinder o Gyfryngwyr Cofrestredig ar hyn o bryd, a nifer cyfyngedig iawn o Gyfryngwyr sy'n siarad Cymraeg, ac y 'gallai hyn greu oedi yn y broses'.”

Cafodd cynllun y Cyfryngwyr Cofrestredig ei adolygu gan y Farwnes Newlove, Comisiynydd Dioddefwyr. Mae'r adolygiad, 'A Voice for the Voiceless', a gafodd ei gyhoeddi ym mis Ionawr 2018 yn nodi bod prinder o Gyfryngwyr Cofrestredig ar gael i i weithio mewn rhai ardaloedd daearyddol, fel Gogledd Cymru, a bod diffyg Cyfryngwyr Cofrestredig sy'n siarad Cymraeg.

Cafodd tystiolaeth ysgrifenedig ar gynllun y Cyfryngwyr Cofrestredig ei darparu i'r Comisiwn ar Gyfiawnder yng Nghymru, a sefydlwyd gan Brif Weinidog Cymru ym mis Medi 2017 i adolygu gweithrediad y system gyfiawnder yng Nghymru. Wrth roi tystiolaeth i'r Comisiwn roedd Cyfryngwr Cofrestredig wedi nodi, pan oedd yn cyflwyno ei dystiolaeth (Gorffennaf 2018), fod un Cyfryngwr Cofrestredig amser llawn a oedd yn siarad Cymraeg a dau Gyfryngwr Cofrestredig rhan-amser a oedd yn siarad Cymraeg yng Nghymru. Nododd fod y rhan fwyaf o gyfryngwyr a oedd yn gweithio yng Nghymru yn teithio o Loegr i asesu ymddygiad a chynnwlidiadau.

Roedd tystiolaeth ysgrifenedig wedi'i darparu hefyd i'r Comisiwn ar Gyfiawnder yng Nghymru ym mis Awst 2018, gan y Farwnes Newlove, Comisiynydd Dioddefwyr. Roedd y Farwnes wedi adrodd y gall dioddefwyr ag anghenion cyfathrebu aros yn hir i gael Cyfryngwr Cofrestredig i'w helpu i roi tystiolaeth i'r heddlu ac i roi tystiolaeth mewn llys.

Cynhaliodd Gwasanaeth Llysoedd a Thribiwnlysoedd Ei Mawrhydi a'r Weinyddiaeth Gyfiawnder ymarfer recriwtio rhwng mis Hydref a mis Rhagfyr 2018, er mwyn recriwtio Cyfryngwyr Cofrestredig ychwanegol. Roedd 15 o ymgeiswyr yn llwyddiannus ac mae 12 ohonynt wedi cwblhau'r cwrs hyfforddi cydnabyddedig sydd wedi'i asesu, a byddant yn gallu dechrau ymarfer fel Cyfryngwyr Cofrestredig yng Nghymru cyn hir.

Canllawiau a hyfforddiant i weithwyr proffesiynol rheng flaen (para 4.14-4.15 o'r Memorandwm Esboniadol)

“A wnewch ddarparu rhestr o'r holl bolisiâu a chanllawiau cyhoeddus perthnasol yng Nghymru yr ydych wedi eu hasesu fel rhai y mae angen eu diweddar os bydd y Bil yn cael ei basio, ynghyd â'r dyddiad y cawsant eu diweddar ddiwethaf?”

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

“A wnewch ddarparu cost amcangyfrifedig diweddar: holl canllawiau Llywodraeth Cymru mewn perthynas â Gofal Cymdeithasol, Addysg (paragraff 61 o Atodiad 4 i'r Memorandwm Esboniadol), Iechyd, Rhianta a'r trydydd sector (paragraff 8.19 o'r Memorandwm Esboniadol)?”

Mae diweddaru canllawiau Llywodraeth Cymru yn un o'r gweithgareddau arferol y mae swyddogion yn eu gwneud yn rheolaidd i sicrhau bod canllawiau o'r fath yn cydymffurfio ag unrhyw newidiadau i'r ddeddfwriaeth neu i weithdrefnau. Felly, byddem yn disgwyl i waith o'r fath gael ei dalu gan gostau rhedeg gweinyddol, ac na fydd unrhyw gostau ychwanegol neu ychydig iawn o gost mewn perthynas â gwaith o'r fath.

Bydd y Grŵp Gweithredu yn ystyried a fydd angen diweddaru'r canllawiau a ddarperir gan gyrrf cyhoeddus eraill. Gan nad ydym yn creu trosedd newydd, rydym yn disgwyl y bydd canllawiau sydd eisoes yn bodoli ar draws cyrrf cyhoeddus yn cael eu diweddaru, yn hytrach na'u cynhyrchu o'r newydd. Mae'r sefydliadau sy'n gyfrifol am y canllawiau hyn, er enghraift Gwasanaeth Erlyn y Goron neu'r Coleg Plismona Cenedlaethol, yn diweddaru eu canllawiau'n rheolaidd i adlewyrchu newidiadau yn y gyfraith ac mewn arferion. Rydym yn rhagweld y byddant yn defnyddio adnoddau sydd eisoes yn bodoli i wneud hynny. Mewn nifer o achosion mae canllawiau ar weithredu amddiffyniad cosb resymol yn un agwedd yn unig o ganllawiau ehangach sy'n cynnwys amrediad eang o faterion yn ymwneud â materion diogelu neu gyfiawnder troseddol. Mae Safon Gyhuddo Gwasanaeth Erlyn y Goron, er enghraift, yn darparu canllawiau i erlynwyr a swyddogion yr heddlu mewn perthynas â nifer o wahanol droseddau yn erbyn y person. Mae'r ffordd o weithredu mewn achosion o ymosodiad cyffredin lle gallai amddiffyniad cosb resymol gael ei ddefnyddio yn un rhan o'r canllawiau hynny yn unig.

“Mae paragraff 8.47 o'r Memorandwm Esboniadol yn cyfeirio at ddiweddaru Gweithdrefnau Diogelu Plant Cymru Gyfan 2002 yn rheolaidd. Ers diwygio'r gweithdrefnau hyn yn 2008, a wnewch chi nodi:

- *pa mor aml y maent wedi'u diweddaru;*
- *pryd y cawsant eu diweddaru ddiwethaf;*
- *faint o amser a gymerodd y gwaith diweddaru;*
- *cyfanswm costau'r gwaith hwn o ran ailddrafftio, dosbarthu a hyfforddi.”*

Cafodd Gweithdrefnau Amddiffyn Plant Cymru Gyfan 2008 eu cynhyrchu a'u mabwysiadu gan yr holl Fyrddau Diogelu Plant yng Nghymru. Nid canllawiau Llywodraeth Cymru ydynt. Roedd Grŵp Adolygu Gweithdrefnau Amddiffyn Plant Cymru Gyfan (sydd bellach wedi'i chwalu) yn gyfrifol am gadw'r gweithdrefnau mor ddiweddar ag sy'n bosibl, ac roeddent wedi ychwanegu nifer o brotocolau at y gweithdrefnau craidd.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Ar hyn o bryd, mae Gweithdrefnau Amddiffyn Plant Cymru Gyfan a'r Polisi a'r Gweithdrefnau ar gyfer Amddiffyn Oedolion Agored i Niwed yn cael eu hadolygu gan Fwrdd Diogelu Caerdydd a'r Fro ar ran yr holl Fyrddau Diogelu yng Nghymru. Caiff hynny ei wneud er mwyn rhoi ystyriaeth i Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014, a ddaeth i rym ar 6 Ebrill 2016, a'i chanllawiau statudol ategol. Caiff y gwaith ei oruchwyllo gan Fwrdd Prosiect sy'n cael ei gadeirio gan Gyfarwyddwr Gwasanaethau Bro Morgannwg, ac sy'n cynnwys cynrychiolwyr o'r holl Fyrddau Diogelu a'u partneriaid. Bwriedir i'r Gweithdrefnau Diogelu newydd ar gyfer Cymru, a fydd yn disodli Gweithdrefnau Amddiffyn Plant Cymru Gyfan a gweithdrefnau Amddiffyn Oedolion Agored i Niwed, gael eu lansio yn hydref 2019.

Yn ogystal, mae Llywodraeth Cymru wedi trefnu ar y cyd â rhanddeiliaid i gynhyrchu nifer o ganllawiau ar arferion sy'n disodli protocolau cyfredol Gweithdrefnau Amddiffyn Plant Cymru Gyfan er mwyn diogelu plant dan amgylchiadau penodol, er enghraifft, mewn perthynas â masnachu mewn plant a phlant coll o gartrefi neu o leoliadau gofal.

Bydd Gweithdrefnau Diogelu Cymru yn cael eu cynnal gan Gofal Cymdeithasol Cymru ar ffurf digidol a fydd yn sicrhau eu bod yn hawdd eu defnyddio, eu hadolygu a'u diweddu. Mae'r Bwrdd Prosiect yn ystyried trefniadau ffurfiol er mwyn cadw Gweithdrefnau Diogelu Cymru yn gyfredol fel eu bod yn adlewyrchu newidiadau mewn arferion a chanllawiau. Cyfrifoldeb y Byrddau Diogelu fydd hynny.

Mae'r prosiect presennol yn adolygiad sylweddol, yn hytrach nag yn ddiweddu, ac fe'i dechreuwyd yn 2017. Mae cyllid o £185,000 wedi cael ei roi dros y ddwy flynedd ddiwethaf i gynhyrchu, digidoleiddio a chyfieithu Gweithdrefnau Diogelu Cymru. Bydd angen cyllid ychwanegol i'w rhoi ar waith ac ar gyfer adnoddau hyfforddi. Mae Llywodraeth Cymru wedi darparu'r cyllid ar gyfer yr adolygiad, a bydd yn ceisio cael cytundeb ynghylch darparu cyllid ar gyfer lansio'r gweithdrefnau a'u rhoi ar waith. Mae hynny'n cynnwys gwaith Gofal Cymdeithasol Cymru ar y cyd â'r Bwrdd Prosiect i gynhyrchu deunyddiau hyfforddi i'w defnyddio gan yr holl Fyrddau Diogelu yng Nghymru.

Mae'r Bwrdd Prosiect wedi cael eu briffio ar y Bil. Fel rhan o'u gwaith, byddant yn ystyried y goblygiadau canlyniadol (os bydd y Bil yn cael ei basio) o ran diweddu Gweithdrefnau Diogelu Cymru fel rhan o'r trefniadau cynaliadwy a wneir i gadw'r gweithdrefnau'n gyfredol, fel eu bod yn adlewyrchu newidiadau mewn arferion, cyfraith achosion a chanllawiau. Bydd aelodau Bwrdd Prosiect Gweithdrefnau Diogelu Cymru yn cael eu gwahodd i gyfrannu at waith y Grŵp Gweithredu.

"A fydddech cystal â rhoi rhagor o wybodaeth am y costau sy'n gysylltiedig â llwyth gwaith y gwasanaethau cymdeithasol sy'n deillio o baragraff 50 o Atodiad 4 o'r Memorandwm Esboniadol. Mae hwn yn nodi y gall fod cynnydd o ran adrodd am ddigwyddiadau gan 'unigolion yn y gymuned a sefydliadau fel ysgolion' yn unol â'r 'ddyletswydd i roi gwybod' yn y Ddeddf Gwasanaethau Cymdeithasol a Llesiant."

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Nid oes unrhyw gynsail yn y DU ar gyfer dileu amddiffyniad cosb resymol, ac felly nid yw'n ofynnol i wasanaethau cyhoeddus gofnodi achosion o gosbi corfforol neu adrodd amdanynt. Yn sgil hynny, nid oes unrhyw ddata cyhoeddedig neu ddata sydd ar gael yn rhwydd i'w defnyddio fel llinell sylfaen, nac ychwaith brofiad gan wlad arall, er mwyn gallu bwrw amcan sy'n ddigon cadarn am y cynnydd posibl o ran atgyfeiriadau gwasanaethau cymdeithasol. O ganlyniad i hynny, mae'n anodd darogan yn gywir y costau sy'n gysylltiedig â chynnydd posibl mewn llwyth gwaith ar gyfer gwasanaethau cymdeithasol. Erbyn hyn, os yw'r ddeddfwriaeth yn cael ei chyflwyno, rhagwelir na fydd angen ymateb i gyfran sylweddol o achosion o gosbi corfforol o dan y broses diogelu plant.

Rydym yn cydweithio â nifer fach o awdurdodau lleol i geisio pennu llinell sylfaen sy'n ddigon cywir; fod bynnag, mae nifer o faterion yn gysylltiedig â hynny. Cafodd y rheini eu hamlinellu yn fy llythyr at Lynne Neagle AC, y Cadeirydd, ar 5 Ebrill. Un o'r rhesymau dros geisio pennu llinell sylfaen a rhoi systemau ar waith i gofnodi achosion yn well yw ein galluogi i ystyried ein gofynion o ran adnoddau a deall y goblygiadau o ran costau.

Bydd gwaith yn parhau, drwy'r Grŵp Gweithredu, ar y cyd â gwasanaethau cymdeithasol, i sefydlu system cofnodi a monitro er mwyn datblygu system ddibynadwy ar gyfer casglu data perthnasol am gyfnod cyn i'r ddeddfwriaeth ddod i rym. Bydd hynny'n ein galluogi i bennu llinellau sylfaen. Hefyd, yn dilyn cyflwyno'r ddeddfwriaeth, bydd y system honno'n galluogi inni fonitro effaith y Bil.

"Pa drafodaethau a gynhalwyd gyda Gwasanaeth Erlyn y Goron ynghylch diwygio'r Safon Gyhuddo am Droseddau yn erbyn y Person i sicrhau nad yw Adran 58 o Ddeddf Plant 2004 yn gymwys yng Nghymru yn unol â pharagraff 3.23 o'r Memorandwm Esboniadol? Faint o amser fydd yr adolygiad hwn yn ei gymryd, faint y disgwyli'r iddo ei gostio a phwy fydd yn gyfrifol am y gost hon?"

Roedd Huw Irranca-Davies, y cyn-Weinidog Plant, Pobl Hŷn a Gofal Cymdeithasol, wedi cyfarfod â Phrif Erlynydd y Goron ar gyfer Cymru a chydweithwyr o Wasanaeth Erlyn y Goron ar 9 Hydref 2018, a chyfarfues i â nhw ar 7 Mawrth 2019. Mae fy swyddogion hefyd wedi bod mewn cysylltiad rheolaidd â chydweithwyr yng Ngwasanaeth Erlyn y Goron. Cafwyd trafodaethau ar amrediad o faterion, gan gynnwys diwygio'r 'Offences Against the Person Charging Standard' (y Safon Gyhuddo).

Mae Gwasanaeth Erlyn y Goron yn sefydliad sydd heb ei ddatganoli ac sydd ag adran bolisiâu sy'n diweddar udogfennau canllaw fel rhan o'r gwaith y maent yn cael ei gyflogi i'w wneud. Rhwng Gorffennaf ac Awst 2017, ymgynghorodd Gwasanaeth Erlyn y Goron ar ddiwygiadau i'r Safon Gyhuddo. Gwnaed hynny fel rhan o'u gwaith diweddar rheolaidd, i adlewyrchu nifer o ddatblygiadau cyfreithiol a chymdeithasol ac i egluro agweddau ar y Safon Gyhuddo. Roedd y diwygiadau'n cynnwys egluro'r ffordd o weithio sy'n ofynnol os oes angen ystyried amddiffyniad cosb resymol. Bydd y newidiadau yn y ffordd y caiff yr amddiffyniad ei ddefnyddio yn neddfwriaeth Cymru yn cael eu hadlewyrchu drwy ddiwygiadau i Safon Gyhuddo Gwasanaeth Erlyn y Goron yn unol ag arferion cyffredin Gwasanaeth Erlyn y Goron.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Gwasanaeth Erlyn y Goron sy'n talu'r costau a ysgwyddir mewn perthynas ag adolygu a diweddaru eu canllawiau cyfreithiol. Yn dilyn trafodaethau, deëllir y bydd Gwasanaeth Erlyn y Goron yn talu costau a ysgwyddir mewn perthynas ag adolygu'r Safon Gyhuddo i adlewyrchu deddfwriaeth sy'n sicrhau nad yw Adran 58 o Ddeddf Plant 2004 yn berthnasol yng Nghymru, yn unol â'u harfer arferol.

"Pa drafodaethau a gynhaliwyd gyda'r Heddlu ynghylch y canllawiau diwygiedig y cyfeiriwyd atynt ym mharagraff 15 o Atodiad 4 o'r Memorandwm Esboniadol? Faint o amser fydd yr adolygiad hwn yn ei gymryd, faint y disgwyli'r iddo gostio a phwy fydd yn gyfrifol am y gost hon?"

"Pa drafodaethau sydd wedi'u cynnal â'r Heddlu ynghylch y gwahaniaeth yn y gofynion cofnodi rhwng Cymru a Lloegr ar gyfer y gronfa ddata genedlaethol Gorfodi'r Gyfraith y cyfeiriwyd ati ym mharagraffau 14 a 15 o Atodiad 4 o'r Memorandwm Esboniadol? Sut y cafodd dichonoldeb y gwaith hwn ei asesu, faint y disgwyli'r iddo ei gostio a phwy fydd yn gyfrifol am y gost hon?"

Cyfarfu Huw Irranca-Davies, y cyn-Weinidog Plant, Pobl Hŷn a Gofal Cymdeithasol, â'r pedwar Prif Gwnstabl (neu eu Dirprwyon) o'r pedwar heddlu yng Nghymru ar 3 Awst 2018, a chyfarfûm â nhw ar 24 Ionawr 2019. Mae fy swyddogion hefyd wedi bod mewn cysylltiad rheolaidd â chynrychiolwyr o'r pedwar heddlu yng Nghymru. Cafwyd trafodaethau ar amrediad o faterion, gan gynnwys canllawiau a'r gofynion o ran cofnodi achosion.

Fel yr eglurwyd ym mharagraff 14 o Atodiad 4 o'r Memorandwm Esboniadol, bydd y Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith yn cael ei sefydlu i ddisodli Cronfa Ddata Genedlaethol yr Heddlu a Chyfrifiadur Cenedlaethol yr Heddlu sydd eisoes yn bodoli. Ar hyn o bryd, mae gwybodaeth am euogfarnau'n cael ei chadw ar Gyfrifiadur Cenedlaethol yr Heddlu, ac mae cofnodion am wybodaeth nad yw'n ymwneud ag euogfarnau (e.e. cudd-wybodaeth, datrysiau anstatudol y tu allan i'r llys fel datrysiau cymunedol) yn cael eu cadw ar Gronfa Genedlaethol yr Heddlu.

Yn ein trafodaethau â'r heddlu, rydym wedi sôn bod angen ystyried sut y bydd y Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith yn gwahaniaethu rhwng y ffaith y gallai rhai ymosodiadau cyffredin ar blant fod yn wybodaeth nad yw'n ymwneud ag euogfarn yn Lloegr ond yn wybodaeth yn ymwneud ag euogfarn yng Nghymru. Felly, mae hynny'n fater i'w ystyried ymhellach.

Ar hyn o bryd, ein barn yw na fyddai'n anodd ymdrin â'r gwahaniaeth o fewn cronda ddata sy'n cynnwys cofnodion am euogfarnau a gwybodaeth nad yw'n ymwneud ag euogfarnau. Nid yw dileu amddiffyniad cosb resymol yng Nghymru yn creu trosedd newydd; mae trosedd ymosod cyffredin eisoes yn bodoli yn y gyfraith gyffredin ar draws Cymru a Lloegr, ac felly dylai fod yn bosibl adrodd am achosion o ymosod cyffredin ar blant, naill ai fel gwybodaeth am euogfarn (e.e. os bydd rhybuddiad wedi'i dderbyn gan y cyflawnwr) neu fel gwybodaeth nad yw'n ymwneud ag euogfarn.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Bydd cael canllawiau clir am yr wybodaeth sy'n cael ei rhoi yn Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith yn hanfodol, fel bod eglurder ynghylch a yw achosion o 'gosb resymol' yn cael eu cofnodi fel gwybodaeth am euogfarn neu wybodaeth nad yw'n ymwneud ag euogfarn. Ar ôl i'r wybodaeth gael ei chofnodi, dylai fod yn glir i unedau datgelu pa wybodaeth nad yw'n ymwneud ag euogfarn y dylent ei rhyddhau at ddibenion gwriad manylach y Gwasanaeth Datgelu a Gwahardd.

Rydym o'r farn y byddai unrhyw gostau sy'n gysylltiedig â chanllawiau o'r fath yn isel iawn, ac yn rhan o ganllawiau llawer ehangach a fyddai eu hangen mewn perthynas â rhoi gwybodaeth yn y Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith. Fodd bynnag, mae'r materion hyn yn ymwneud â phroses weithredu fanwl y byddwn yn ei thrafod ymhellach â'r heddlu ac eraill yn ôl yr angen.

"A wnewch roi manylion unrhyw gostau sy'n gysylltiedig â mynd ar gwrs fel rhan o rybuddiad amodol y cyfeirir ato ym mharagraff 21 o Atodiad 4 o'r Memorandwm Esboniadol? A fydd angen datblygu cwrs ar gyfer y math hwn o drosedd? Os bydd, pwy y disgwylir a fydd yn datblygu ac yn ariannu'r cwrs hwn?"

"A fydddech cystal â rhoi manylion ar y cynnydd o ran datrysiau cymunedol y cyfeirir atynt ym mharagraff 24 o Atodiad A y Memorandwm Esboniadol a'r costau sy'n gysylltiedig â'r rhain?"

Cyfarfu Huw Irranca-Davies, y cyn-Weinidog Plant, Pobl Hŷn a Gofal Cymdeithasol, â Chomisiynwyr Heddlu a Throseddu ar 29 Hydref 2018, a chyfarfûm â nhw ar 24 Ionawr 2019. Mae fy swyddogion hefyd wedi bod mewn cysylltiad rheolaidd â Gwasanaeth Erlyn y Goron a chynrychiolwyr o'r pedwar heddlu yng Nghymru. Cafwyd trafodaethau ar amrediad o faterion, gan gynnwys datrysiau y tu allan i'r llys.

Caiff rhybuddiadau amodol eu rhoi gan yr heddlu yn unol â chanllawiau'r Weinyddiaeth Gyflawnder. Mae penderfyniadau'n ymwneud â'r defnydd o ddatrysiau y tu allan i'r llys, a'r amodau mwyaf priodol i roi ar rybuddiad, yn faterion nad oes gennym gyfrifoldeb datganoledig drostynt. Byddwn yn parhau i gydweithio â'r Swyddfa Gartref, y Weinyddiaeth Gyflawnder, Gwasanaeth Erlyn y Goron, yr Heddlu, a Chomisiynwyr Heddlu a Throseddu i ystyried ymyriadau addas.

Mae'r ffordd y caiff cyrsiau eu hariannu yn amrywio rhwng yr heddluoedd. Fel arfer maent yn cael eu talu drwy gyllid gan y Comisiynydd Heddlu a Throseddu; gan y troseddwyr ei hun; neu maent eisoes ar gael ac yn cael eu hariannu yn y gymuned. Mae'n bosibl y gellid defnyddio darpariaeth sydd eisoes yn bodoli. Bydd y Grŵp Gweithredu, a fydd yn cynnwys cynrychiolwyr o sefydliadau allweddol, yn ystyried defnyddio datrysiau y tu allan i'r llys, gan gynnwys datrysiau cymunedol a rhybuddiadau amodol. Bydd gwaith cynllunio'r broses weithredu hefyd yn ystyried y modelau mwyaf priodol ar gyfer cyflawni'r gwaith a hefyd canllawiau, trefniadau cyllid ac adnoddau.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Ymgyrch codi ymwybyddiaeth a chostau (paragraffau 3.63-3.66 o'r Memorandwm Esboniadol).

“A wnewch roi eglurhad o ran y gynulleidfa darged ar gyfer yr ymgyrch codi ymwybyddiaeth?”

Bydd yr ymgyrch cyfathrebu'n targedu holl boblogaeth Cymru, gan fod y rhan fwyaf o bobl yn dod i gysylltiad â phlant.

Bydd y gynulleidfa'n cael ei rhannu hefyd, a chaiff negeseuon eu teilwra ar gyfer nifer o wahanol grwpiau. Byddwn yn cynnal gwaith cwmpasu dros y misoedd nesaf i ystyried pa negeseuon sy'n taro deuddeg a'r ffyrdd fwyaf effeithiol o gyfathrebu â gwahanol grwpiau.

Bydd y cynllun cyfathrebu'n cynnwys trafodaethau helaeth â rhanddeiliaid sy'n allweddol i'r broses o weithredu'r ddeddfwriaeth, er enghraifft yr heddlu, Gwasanaeth Eryl y Goron, y Gwasanaeth Datgelu a Gwahardd, a gweithwyr proffesiynol a sefydliadau rheng flaen sy'n gweithio gyda phlant a'u teuluoedd, gan gynnwys gwasanaethau cymdeithasol, a gweithwyr proffesiynol yn y meysydd iechyd ac addysg.

“A fydd ech cystal â rhoi manylion y dulliau a'r costau ar gyfer codi ymwybyddiaeth ymysg y rheini sy'n ymweld â Chymru, sut y caiff hyn ei gyflawni a'r costau sy'n gysylltiedig â hyn am dair blynedd (paragraff 9.2 o'r Memorandwm Esboniadol)?”

Caiff gwaith ei gynnal wrth i'r Bil fynd ar ei hynt drwy'r Cynulliad er mwyn pennu'r dulliau mwyaf effeithiol o godi ymwybyddiaeth ymhliith ymwelwyr â Chymru. Rydym yn cydnabod y dylai dinasyddion Cymru ac ymwelwyr â'n gwlad ddod o hyd i'r gyfraith, a'i deall hi, yn weddol rhwydd ymlaen llaw, fel y gallant elwa ar y manteision a pharchu'r goblygiadau y bydd y gyfraith newydd yn eu gosod arnynt.

“A fydd ech cystal â rhoi manylion yr asesiad a wnaed ynghylch a ddylid cynnwys yr ymgyrch codi ymwybyddiaeth hon ar wyneb y Bil?”

Rydym wedi rhoi ystyriaeth ofalus a manwl i'r angen i godi ymwybyddiaeth o'r newid yn y gyfraith cyn cyflwyno'r ddeddfwriaeth ac ar ôl iddi gael ei chyflwyno, os bydd y Bil yn cael Cydsyniad Brenhinol.

Fe wnaethom gomisiynu adroddiad gan y Sefydliad Polisi Cyhoeddus i Gymru (a elwir bellach yn Ganolfan Polisi Cyhoeddus Cymru) ar ddeddfu i wahardd cosbi plant yn gorfforol (<https://www.wcpp.org.uk/publication/legislating-to-prohibit-parental-physical-punishment-of-children/>), a oedd yn ystyried profiad gwledydd eraill sydd wedi deddfu yn y maes hwn.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Fel sydd wedi'i nodi ym mharagraffau 8.24 i 8.25 o'r Memorandwm Esboniadol, roedd yr adroddiad yn dangos y gallai newid yn y gyfraith, sydd hefyd yn cynnwys ymgyrch codi ymwybyddiaeth a chymorth i rieni, arwain at lai o achosion o gosbi corfforol a newid mewn agweddau. Canfu hefyd os nad yw ymgyrch cyhoeddusrwydd yn cael ei chynnal ar y cyd â newid yn y gyfraith, neu os nad yw ymgyrch yn parhau am gyfnod digonol, fod ymwybyddiaeth o'r gyfraith newydd yn llai eang.

Felly, rydym wedi ymrwymo i gynnal ymgyrch codi ymwybuddiaeth am gyfnod digonol, ac wedi cadarnhau'r ymrwymiad hwnnw ym Mhennod 8 o'r Memorandwm Esboniadol.

Nid oes angen rhoi dyletswydd ar Weinidogion Cymru i gynnal ymgyrch codi ymwybyddiaeth o ystyried yr ymrwymiad cadarn hwn a'r ffaith fod pwerau digonol eisoes gan Weinidogion Cymru i allu codi ymwybyddiaeth o'r ddeddfwriaeth.

Grŵp Gweithredu (paragraff 8.9 o'r Memorandwm Esboniadol)

"A fydddech cystal â rhoi manylion am rôl, aelodaeth a chylch gorchwyl y Grŵp Gweithredu a pha mor aml y mae wedi cwrdd hyd yma, ac amlinelliad o'r rhesymau pam na chafodd y wybodaeth hon ei chynnwys yn y Memorandwm Esboniadol?"

Cylch gwaith y Grŵp Gweithredu fydd ystyried a gwneud argymhellion am sut i weithredu unrhyw newidiadau angenrheidiol yn y modd mwyaf ymarferol ac effeithiol. Rwyf wedi gwahodd amrywiaeth eang o randdeiliaid i gael eu cynrychioli, gan gynnwys yr heddlu, Comisiynwyr Heddlu a Throseddu, gwasanaethau cymdeithasol, y sector cyhoeddus yng Nghymru, gan gynnwys y sectorau iechyd ac addysg. Trefnwyd bod y cyfarfod cyntaf yn cael ei gynnal ar 14 Mai 2019.

Yn sgil trafodaethau blaenorol â rhanddeiliaid, rydym yn rhagweld y gallai'r ffrydianu gwaith gynnwys y canlynol: - cyngor, canllawiau, cymorth a gwybodaeth i rieni; casglu data, monitro a gwerthuso; prosesau gweithredol, gweithdrefnau, cyfarwyddyd a rhngweithio rhwng asiantaethau; a datrysiau y tu allan i'r llys, gan gynnwys cynlluniau eraill. Bydd yr ystod lawn o waith i'w gynnwys yn cael ei ystyried gan y Grŵp Gweithredu.

Arall

"O ran paragraff 3.42 o'r Memorandwm Esboniadol, a ydych yn sicr bod pob cyfeiriad academaidd arall wedi'i gynrychioli'n gywir?"

Nod cyffredinol y Bil yw helpu i ddiogelu hawliau plant.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Y bwriad oedd ein bod yn darparu crynodeb cytbwys o'r dystiolaeth yn y ddogfen ymgynghori a'r Memorandwm Esboniadol, yn hytrach na darparu adolygiad academaidd cynhwysfawr. Mae casgliadau ein dogfen ymgynghori yn eithaf cyson â'r canfyddiadau sydd wedi'u nodi yn adroddiad Canolfan Polisi Cyhoeddus Cymru '*Parental Physical Punishment: Child Outcomes and Attitudes*'. Roedd adroddiad Canolfan Polisi Cyhoeddus Cymru yn adolygiad annibynnol o'r llenyddiaeth sydd ar gael yr oedd eu canfyddiadau wedi'u hadolygu gan gyfoedion yn y maes. Mae swyddogion wedi ceisio darllen a gwirio pob cyfeiriad academaidd y cyfeirir atynt yn y Memorandwm Esboniadol a'r ddogfen ymgynghori. Hyd y gwyddom, mae'r cyfeiriadau academaidd wedi'u cynrychioli'n gywir.

"A wnewch roi rhagor o eglurder ynghylch data a gyhoeddwyd, y cyfeirir ato ym mharagraff 8.20 o'r Memorandwm Esboniadol yn Seland Newydd o ran achosion a gofnodwyd gan y gwasanaeth heddlu cyn y daeth y newid i'r gyfraith i rym, ac ar ôl hynny?"

Daeth deddfwriaeth Seland Newydd, sef Deddf Diwygio Troseddau (Adran 59 a Amnewidiwyd) 2007 [*Crimes (Substituted Section 59) Amendment Act 2007*] i rym ar 22 Mehefin 2007. Diben y ddeddfwriaeth oedd atal rhieni rhag defnyddio grym i gosbi plant.

Mae'r heddlu yn Seland Newydd wedi cyhoeddi nifer o adolygiadau ar effaith y ddeddfwriaeth yn Seland Newydd. Mae'r adolygiadau ar gael yn:

<https://www.police.govt.nz/about-us/publication/crimes-substituted-section-59-amendment-act-2007>

Mae'r adolygiadau wedi'u seilio ar ddata a gasglwyd gan heddlu Seland Newydd, gyda'r bwriad o ddarparu gwybodaeth am nifer y galwadau i'r heddlu am ymosodiadau ar blant a oedd yn cynnwys 'smacio' a 'mân achosion o ddisgyblu corfforol', yn hytrach nag ymosodiadau eraill ar blant.

Yn ystod cyfnod o dri mis cyn cyflwyno'r ddeddfwriaeth, a phum mlynedd ar ôl ei chyflwyno, roedd heddlu Seland Newydd wedi ymchwilio i droseddau a gofnodwyd o dan y saith cod canlynol:

- Ymosod ar Blentyn (â Llaw)
- Ymosod ar Blentyn (Arf Arall)
- Ymosod Cyffredin (Domestig) (â Llaw)
- Ymosod Cyffredin (â Llaw)
- Ymosodiad Arall ar Blentyn (o dan 14 oed)
- Ymosod Cyffredin (Domestig) (Arf Arall)
- Ymosod Cyffredin Arall #1649

Cafodd y troseddau o dan y saith cod hyn eu hymchwilio at ddibenion yr adolygiadau, oherwydd ystyriwyd mai'r troseddau hyn oedd y mathau hynny a fyddai'n fwy tebygol o gynnwys achosion o 'smacio'. Mae adroddiadau'r adolygiadau'n dangos nad cyfanswm yr achosion o ymosod ar blant yr oedd heddlu Seland Newydd wedi ymdrin â nhw yn ystod unrhyw rai o gyfnodau'r adolygiadau oedd yr achosion o ymosodiadau ar blant a nodwyd o dan y codau hyn - gan nad

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

oedd achosion o ymosod nad ystyriwyd eu bod yn debygol o gynnwys achosion o 'smacio' wedi'u harchwilio.

Ar sail yr ymchwiliad hwnnw, cafodd yr achosion a gofnodwyd o dan bob un o'r troseddau hynny eu rhoi o dan un o'r categorïau canlynol: 'smacio', 'mân achosion o ddisgyblu corfforol' ac 'ymosodiad arall ar blentyn'.

Roedd y sail resymegol a ddefnyddiwyd i ddyrannu pob achos i un o'r categorïau hyn yn cynnwys ystyriaeth o'r canlynol:

- y weithred gorfforol wirioneddol a ddefnyddiwyd yn yr ymosodiad ar y plentyn;
- y cyd-destun a'r amgylchiadau.

Rydym wedi crynhoi'r data a gasglwyd ar gyfer pob un o'r 12 cyfnod adolygu yn y tabl isod. Y cyfnod adolygu cyntaf, sef 17/03/2007 – 22/06/2007, yw'r cyfnod o dri mis cyn i Ddeddf Seland Newydd gael ei chyflwyno:

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

New Zealand review of cases since enactment of Section 59

	Law passed												Numbers of cases		
	Baseline	Review	Review												
	Period	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	Period 8	Period 9	Period 10	Period 11			
	17/03/2007	23/06/2007	29/09/2007	05/04/2008	04/10/2008	05/04/2009	24/06/2009	23/12/2009	23/06/2010	22/12/2010	22/06/2011	22/12/2011			
		-	-	-	-	-	-	-	-	-	-	-			
		22/06/2007	28/09/2007	04/04/2008	03/10/2008	04/04/2009	23/06/2009	22/12/2009	22/06/2010	21/12/2010	21/06/2011	21/12/2011	21/06/2012		
Smacking	3	3	13	9	8	3	11	25	18	18	23	12			
Minor Acts of Physical Discipline	10	12	69	49	39	10	39	38	45	58	45	31			
Other Child Assaults/No offence disclosed	82	96	206	200	232	114	318	353	381	380	432	312			
Total	95	111	288	258	279	127	368	416	444	456	500	355			

Note: Review periods vary in length and so are not directly comparable

Source: New Zealand Police

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Fel y nodwyd ym mharagraff 8.20 o'r Memorandwm Esboniadol, mae yna wahaniaethau rhwng y sefyllfaoedd yn Seland Newydd a Chymru y mae'n rhaid inni eu cofio wrth gymharu'r ddwy wlad. Yn amodol ar y cafeatau sydd wedi'u rhestru ym mharagraff 8.34 ac atodiad 6 o'r Memorandwm Esboniadol, rydym wedi defnyddio data Seland Newydd fel procsi i amcangyfrif y cynnydd posibl yn nifer yr achosion o adrodd i'r heddlu ac erlyniadau yn y llysoedd.

Yn achos yr heddlu, nodwyd data sylfaenol sy'n benodol i Gymru drwy archwiliad ôl-weithredol a gynhaliwyd gan y pedwar heddlu yng Nghymru (gweler y tabl ar dudalen 50 o'r Memorandwm Esboniadol). Cafodd maint posibl y cynnydd ei gyfrifo drwy gyfeirio at ddata Seland Newydd, ar sail y ffaith y byddai'r achosion a oedd wedi'u categoreiddio yn Seland Newydd fel rhai a oedd yn cynnwys 'smacio' neu 'fân achosion o ddisgyblu corfforol' yn cyfateb yn fras i droseddau ar lefel 'cosb resymol' yng Nghymru. Mae'r tabl ar dudalen 51 o'r Memorandwm Esboniadol yn egluro bod achosion o'r fath, ar gyfartaledd, wedi digwydd ddwywaith mor aml yn ystod y pum mlynedd yn dilyn cyflwyno'r ddeddfwriaeth yn Seland Newydd. Defnyddiwyd cynnydd cyfartalog gan nad oedd y cyfnodau adrodd yn Seland Newydd yn gyson, ac felly byddai ceisio rhagweld y cynnydd fesul blwyddyn yn gymhleth.

Yn achos y llysoedd, defnyddiwyd data Seland Newydd fel procsi i gael amcangyfrif o'r niferoedd posibl o achosion a erlynir yng Nghymru yn ystod y pum mlynedd yn dilyn cyflwyno'r ddeddfwriaeth – ac eto, rhaid cadw mewn cof y cafeatau sy'n ymwneud â'r gwahaniaethau rhwng y sefyllfaoedd yng Nghymru ac yn Seland Newydd. Fel yr eglurwyd ym mharagraffau 8.40 ac 8.41 o'r Memorandwm Esboniadol, mae'r niferoedd a amcangyfrifwyd wedi'u cyfrifo ar sail y ffaith bod nifer y plant 0-14 oed yng Nghymru yn cyfateb i oddeutu 60% o nifer y plant 0-14 oed yn Seland Newydd (mae'r ddeddfwriaeth yn Seland Newydd yn ymwneud â phlant 0-14 oed).

Yn ystod y cyfnod adolygu o bum blynedd, cafwyd 8 erlyniad am 'smacio' a 55 erlyniad am 'fân achosion o ddisgyblu corfforol', ac felly cyfanswm o 63 erlyniad. Felly, rydym wedi amcangyfrif 37 neu 38 o erlyniadau dros gyfnod o bum mlynedd yng Nghymru. Caiff hynny ei egluro ar dudalennau 8-9 o'r Asesiad o'r Effaith ar Gyfiawnder, lle nodir hefyd y byddai nifer yr achosion o erlyniadau yn debygol o ddechrau gostwng ar ôl pum mlynedd o ganlyniad i'r ymgyrch codi ymwybyddiaeth y bwriedir ei gynnal gan Lywodraeth Cymru.

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

Tystiolaeth i'r Pwyllgor Plant, Pobl Ifanc ac Addysg ar gyfer craffu Cyfnod 1 (Saesneg yn unig)	Evidence submitted to the Children, Young People and Education Committee for Stage 1 scrutiny
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Organisation: Be Reasonable

1 The Bill's general principles

1.1 Do you support the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill?

No

1.2 Please outline your reasons for your answer to question 1.1

(we would be grateful if you could keep your answer to around 1000 words)

Be Reasonable does not support the principles of the bill since it will mean criminalising parents, undermining child protection and bringing the law into disrepute. It will have a negative effect on parents, children, public services and public trust.

Making smacking a criminal offence will distract child protection authorities from identifying families where parents are guilty of real abuse and neglect. The new law will have to be enforced and this will drain already overstretched resources, putting abused children at increased risk of being overlooked. It also devalues the language of child abuse by applying it to behaviour which everyone knows is not abusive.

Making smacking criminal will likely impact teaching, healthcare, childcare, social work and other sectors. As NHS bodies have confirmed, public sector staff accused of using a mild smack will be treated as abusers if the law is changed [<https://www.bereasonable.wales/cwm-taf-foi-response/>].

Safeguarding procedures may mean accused parents are banned from working with children while the matter is resolved. If they are convicted, they will be permanently barred. Staffing

levels at schools, hospitals, youth centres and social work departments may be affected. This turmoil would be incredibly detrimental to family life, and to children.

Out of step

Supporters of this legislation are out of step with public opinion which shows that three-quarters oppose a smacking ban, and two thirds support smacking in some circumstances [<https://www.bereasonable.wales/en-home/public-opinion>]. But the Government fails to admit this. Instead, it uses a small, unrepresentative poll to support the misplaced view that the public is on side [see <https://gov.wales/wales-takes-next-step-end-physical-punishment-children> and <http://bit.ly/welshsmackingpublicopinion>]. Politicians should not impose their will on the public over the minutiae of parenting – and the majority of Welsh adults oppose attempts to do so.

Criminalising ordinary parenting choices.

Be Reasonable does not exist to advocate smacking. It simply argues that parents should not be criminalised for using mild physical discipline. Yet, many parents do believe there is a positive case to be made for the occasional use of mild smacking in the context of a warm, loving parental relationship, accompanied by careful explanation, consistency, and alongside many other positive and negative instruction and reinforcement options. Removing reasonable chastisement will leave these parents open to criminal sanctions.

Deputy Minister for Health and Social Care Julie Morgan has admitted that "by removing the defence, some parents who physically punish their children and are subsequently reported to the police or social services may be charged with a criminal offence in circumstances where that would not happen now because there is a defence they can call on" [<http://record.assembly.wales/Plenary/5571>].

Laws are meant to be obeyed. But some loving parents will ignore a ban because they conscientiously believe a mild smack on the back of the hand or legs to be necessary for certain instances of severe misbehaviour. They will likely argue that criminalising smacking breaches their Article 8 and 9 rights.

Some parents will continue to use mild parental discipline because they are unaware of the new law. Others may be confused by the rhetoric of anti-smacking campaigners who downplay the reach of the law to persuade AMs to back it. All these parents will be at risk of prosecution (or other means of enforcement – see below.)

Chen Palmer, a leading public law firm in New Zealand, has detailed actual cases in which the smacking law there has devastated families [<https://www.bereasonable.wales/wp-content/uploads/2018/02/Chen-Palmer-Opinion-s59-Crimes-Act-January-2018.pdf>]. It contrasts

this with the promises of politicians who said during the passage of the bill that this would not happen.

The current law is clear. Don't confuse it.

The current law is so clear that the reasonable chastisement defence is hardly used. In England and Wales the CPS says in cases where parents were charged it was used just three times in nine years, and none of these cases were in Wales

[<https://www.bereasonable.wales/cps-foi-response/>]. Clearly parents, police, prosecutors and courts are very clear on what is reasonable chastisement and what is unreasonable. If it were confusing, we would expect to see the defence being frequently tested in court by either (a) innocent parents wrongly prosecuted for a mild smack, or (b) guilty parents properly prosecuted for abuse. If lots of cases existed anti-smacking campaigners would highlight them.

Supporters of this bill often cite examples of parental chastisement that is unreasonable to get an emotional response. But such actions are, by definition, already illegal. The CPS Charging Standard for England and Wales says the defence is not available if the chastisement was anything more than "transient and trifling and amounted to no more than temporary reddening of the skin" [<https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard>].

If the law is changed, the consequences for parents will be considerable. Anyone accused or convicted of assaulting a child – under the new definition – will be subject to long-term social services involvement in their family and social stigma. The effect on the children themselves will be devastating – especially if they are made to feel responsible by having to give evidence against their parents. This bill will ruin happy childhoods.

Research has not proved smacking is harmful.

AMs should not rely on claims that mild physical discipline damages children's well-being and results in increased levels of violence. Indeed, last year the Welsh Government's own consultation paper acknowledged that "there is unlikely to be any research evidence which specifically shows the effects of a light and infrequent smack as being harmful to children" [<https://gov.wales/sites/default/files/consultations/2018-02/180109-legislation-consultation-en.pdf> p17].

Consultant child psychologist and former president of the British Psychological Association Professor Tommy MacKay recently told a committee of the Scottish parliament:

"I have surveyed all of the studies relevant to smacking or physical punishment published in peer-reviewed journals in the last 15 years... I cannot avoid feeling that often people start with a particular viewpoint or ideological position, and then seek evidence which they believe

supports it. The evidence base is very much more complex than that in a field of this nature” [https://www.parliament.scot/S5_Equal_Opps/equal%20protection%203/CEPFA_238_PROF_TOM_MACKAY.pdf].

Over 80% of adults were smacked themselves as children.

Anti-smacking campaigners criticise people who say that they were smacked and it did them no harm. But this is a vital source of real world, long-term, first-hand evidence of the effects of smacking. [<https://www.comresglobal.com/polls/be-reasonable-wales-survey/>].

AMs must not choose to listen to anti-smacking academics while ignoring the voices of tens of thousands of their own constituents. They know their parents were motivated by love and that smacking either did them no harm or did them good. Their assessment of their own experience is not invalid just because they don't have a PhD.

1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?

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

No. Changing the public's attitude towards smacking could be approached via an educational campaign. The Welsh Government has already sought to influence parenting techniques under its 'Parenting. Give it time.' campaign [<https://giveittime.gov.wales/?lang=en>]. However, this approach – lecturing parents on the minutiae of parenting – tends not to be welcomed by the public. It also costs taxpayers money.

Proponents of this legislation state that it is about furthering protections for children. But removing reasonable chastisement would place a burden on already overworked child protection professionals, which would spread the net more widely and could lead to children who are at risk of abuse being missed. With tragic irony, it could actually result in protections for children being diminished.

The best way to help vulnerable children is to invest in and improve the current structures.

2 The Bill's implementation

2.1 Do you have any comments about any potential barriers to implementing the Bill? If no, go to question 3.1

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

This bill is unworkable. Removing reasonable chastisement will make mild physical discipline an assault under law and require the authorities to pursue reports of smacking. Parents will be reported, arrested, prosecuted and convicted for actions which have, for many years, been considered a “reasonable” part of family life. Those who do not face prosecution will still have

to face investigation, and potential social services intervention. This will create great stress in homes and between parents and their children.

In Scotland, where similar legislation is being scrutinised, the experts are clear about the burden this will place on the police and the courts. Police Scotland stated that the repeal of justifiable assault, "will result in an increase in reporting" with "potential cost/resource implications for Police Scotland and partner agencies"

[https://www.parliament.scot/S5_Equal_Opps/equal%20protection%202/CEPFA_116_POLICE_SCO TLAND.pdf].

The police also concede: "On occasions, it may be assessed that the harm is not, nor is likely to be significant following a report of what is commonly referred to as 'chastisement'. Notwithstanding, there would be a duty on the Police to investigate any assault on a child and, if a sufficiency of evidence exists, report the circumstances to Crown Office and Procurator Fiscal Service."

Expert child protection officers on the ground feel that this would be a dangerous, and unnecessary, distraction. As one anonymous officer put it in a response to Holyrood's Equalities Committee consultation:

"I am a police officer with Police Scotland, and have 29 years experience, mainly as a detective. I have spent the last 10 years working in Child Protection departments as a Detective Sergeant, and therefore have a significant amount of operational experience in relation to the nature and investigation of child protection concerns. I have worked within the Public Protection Unit in the Edinburgh division, and for the past three years I have worked in the National Child Abuse Investigation Unit. It's fair to say that I have dedicated a significant proportion of my life to protecting children from abuse, and am passionate about continuing that. As a starting point, it's probably important to stress that in all this time, I have never come across a case where I have felt the law as it stands is inadequate for any investigation into child abuse. Conversations with similarly experienced detectives suggests this is a universal view. I have found no appetite amongst my operational colleagues for any legislative changes" [see submission 349]

https://www.parliament.scot/S5_Equal_Opps/equal%20protection%204/344-358.pdf.

Holyrood's Equalities Committee received submissions from the Crown Office, the Secretary to the Scottish Law Agents Society, and law professor Pamela Ferguson which emphasised that smacking will become a criminal offence if the defence of reasonable chastisement is removed – something that is denied by supporters of this bill.

The Crown Office and Procurator Fiscal stated: "The practical effect of [changing the law] would be that some acts carried out as physical punishment, which may be commonly referred to as 'smacking', would no longer benefit from the defence of reasonable chastisement and would fall to be considered in terms of the law of assault as it applies

generally”

[https://www.parliament.scot/S5_Equal_Opps/equal%20protection%207/COPFS_submission.pdf].

And Michael Sheridan, of the Scottish Law Agents Society, told the Committee: “I would not agree that it is appropriate to remove the existing defence which is a wholly appropriate mechanism for restricting unnecessary law enforcement from the private, domestic household where such enforcement would be entirely disproportionate to any possible level of offending created by the bill and which enforcement could destroy family relations and trust”

[https://www.parliament.scot/S5_Equal_Opps/equal%20protection%207/MichaelSheridan.pdf].

As stated above, making smacking criminal will also impact teaching, healthcare, childcare and other public sector professions. Public sector staff accused of using a mild smack will be treated as abusers if the law is changed, leading to job losses and potential staff shortages [<https://www.bereasonable.wales/cwm-taf-foi-response/>]

In New Zealand there has been great confusion following a change in the law, resulting in perfectly innocent parents facing harsh sanctions and unjustified interference in family life [<https://www.bereasonable.wales/wp-content/uploads/2018/02/Chen-Palmer-Opinion-s59-Crimes-Act-January-2018.pdf>].

2.2 Do you think the Bill takes account of these potential barriers?

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

No. It is wholly unrealistic to think that removing reasonable chastisement will not criminalise good parents. Yet supporters of the bill persist in this view.

3 Unintended consequences

3.1 Do you think there are there any unintended consequences arising from the Bill? If no, go to question 4.1

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

As well as the consequences outlined in the previous answers, it is likely that the implementation of this bill will result in a negative culture change in Wales. Removing reasonable chastisement will encourage the reporting of mild physical discipline, creating an atmosphere of suspicion about parents, and a fear amongst parents that they will fall foul of the law for the most trivial of actions.

In January 2015, former Children’s Minister Leighton Andrews told the Welsh Assembly that: “The effect of amendments [to remove the reasonable chastisement defence] is not only to criminalise smacking, but also any other touching of a child in Wales by a parent for the purpose of administering discipline. The offence of a battery is committed where a person

intentionally or recklessly inflicts unlawful violence on another. Any touching of another person, however slight, may amount to a battery. For example, a parent who forcibly lifts a misbehaving child would be guilty of battery" [National Assembly for Wales, The Communities, Equality and Local Government Committee, 22 January 2015, Page 63].

The Government should be affirming parents in the hugely important task of raising and disciplining their children, whilst recognising that each family takes a different approach. A breakdown in trust between parents and the state, and a breakdown in discipline in Welsh homes will have effects which are felt across society.

David Eberhard, a prominent Swedish psychiatrist, has warned that the Swedish attitude to parenting, which started with a ban on reasonable chastisement in 1979, has led to growing truancy rates, a rise in anxiety disorders amongst teenagers, and a declining performance in international educational league tables.

[<https://www.telegraph.co.uk/news/worldnews/europe/sweden/10421246/Swedish-parenting-has-created-nation-of-brats.html>].

4 Financial implications

4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)? If no, go to question 5.1

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

The Welsh Government's explanatory memorandum on this legislation predicts that the costs for the police and the courts in Wales during the initial period of implementation will surpass £3 million [<http://www.assembly.wales/laid%20documents/pri-ld12454-em/pri-ld12454-em-e.pdf> P30].

The memorandum also lists a number of "Unquantified costs" including costs to: "Social services as a result of a potential increase in referrals"; "Family courts and Children and Family Court Advisory and Support Service (Cafcass) Cymru as a result of a potential increase in allegations of common assault against a child or children of parents involved in a family court case"; "CPS, as a result of a potentially higher volume of requests, for charging advice from the police"; and a review of "training and guidance offered by organisations involved in safeguarding of children, to ensure they are up to date"

[<http://www.assembly.wales/laid%20documents/pri-ld12454-em/pri-ld12454-em-e.pdf> P32].

This is a significant burden to be placed on services which are already struggling to perform vital tasks. The memorandum also lists "Disbenefits" to the legislation including "the potential impact on a parent charged with the offence of common assault following removal of the defence" and "the potential impact on the child of a parent arrested or charged in this way"

[<http://www.assembly.wales/laid%20documents/pri-ld12454-em/pri-ld12454-em-e.pdf> P32].

The true human costs of this legislation are not quantifiable.

5 Other considerations

5.1 Do you have any other points you wish to raise about this Bill?

(we would be grateful if you could keep your answer to around 1000 words)

There is much misinformation about the law and practice in other countries. Smacking is legal in three-quarters of the 193 states recognised by the UN. What happens in states where laws on smacking have changed sheds little light on what would happen if Wales passed this bill. As the leading anti-smacking academic Elizabeth Gershoff stated in 2008, in most countries where 'bans' have been passed, "these laws appear in the civil law, not the criminal law" [[https://www.parliament.scot/S5_Bills/Children%20\(Equal%20Protection%20from%20Assault\)%20\(Scotland\)%20Bill/SPBill38PMS052018.pdf](https://www.parliament.scot/S5_Bills/Children%20(Equal%20Protection%20from%20Assault)%20(Scotland)%20Bill/SPBill38PMS052018.pdf) Paragraph 29]. But Wales is proposing to use the criminal law.

It is simply incorrect to say that approximately 50 countries around the world have already made this change. The legal changes most have made are not the same as the Welsh Government's bill proposes. For example, the French approach is to simply require marriage registrars to read a line discouraging parents from using "corporal punishment". It has no enforcement provision [<https://www.bereasonablescotland.org/press-releases/a-smacking-ban-in-france-au-contraire/>].

In 2007, Spain brought forward an amendment to its Civil Code on smacking which was "primarily educational" and carries no penal authority [Goicoechea, P H, "Spain: Banning Physical and Humiliating Punishment in the Home", in Durrant, J E and Smith, A B (Eds), "Global Pathways to Abolishing Physical Punishment: Realizing Children's Rights", Routledge, 2013, page 238].

The UNCRC commends Hungary for legislating against smacking but "regrets that the prohibition is not implemented"

[<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnHFWMhaZ6UbkZijXRImgYBUerx14%2FpljDwTZuM1h%2BdsZQ8cUZpbv04sds%2BJj6dXLS%2B0j2Oa%2BqeLHjiq0RMqhWno0UuJ2FfrAAINgTqz7YrQ>]. Poland is likewise ordered to "Ensure that the prohibition of corporal punishment is adequately monitored and enforced in all settings" [<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnHFWMhaZ6UbkZijXRImgYBUerx14%2FpljDwTZuM1h%2BdsZQ8cUZpbv04sds%2BJj6dXLS%2B0j2Oa%2BqeLHjiq0RMqhWno0UuJ2FfrAAINgTqz7YrQ>]. These countries are applauded for having 'smacking bans' in place, but the reality on the ground suggests otherwise.

Some support the bill because it aims to drive behaviour change. Germany banned smacking in 2000 but in 2012 a survey found four in ten parents still used it

[<https://www.dw.com/en/nearly-half-of-german-parents-hit-their-children/a-15806121>]. New Zealand passed a ban in 2007 [<https://endcorporalpunishment.org/reports-on-every-state-and-territory/new-zealand/>]. In a 2009 referendum 87.4% voted against the ban [https://www.electionresults.govt.nz/2009_citizens_referendum/2009_referendum_results.html]. (Politicians have so far ignored the result.) Polling in 2016 showed 65% would ignore the law [<https://www.familyfirst.org.nz/wp-content/uploads/2017/01/Anti-smacking-Law-Results-2016.pdf>].

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

Tystiolaeth i'r Pwyllgor Plant, Pobl Ifanc ac Addysg ar gyfer craffu Cyfnod 1 (Saesneg yn unig)	Evidence submitted to the Children, Young People and Education Committee for Stage 1 scrutiny
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Organisation: Equal Protection Network Cymru

1 The Bill's general principles

1.1 Do you support the principles of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill?

Yes.

1.2 Please outline your reasons for your answer to question 1.1

We support the Bill and believe that it will achieve the stated aim of abolishing the defence of 'reasonable punishment' with the intended effect of prohibiting the physical punishment of children in Wales. This will improve child safeguarding and protect children's rights. The 'reasonable punishment' defence contained in Section 58 of the Children Act 2004 is a breach of the universal human right to protection from violence. We agree that removing this defence, which only applies in cases of assaults against children, would not create a new offence but would extend to children the protection the law already gives adults, giving them equal protection from physical punishment. We welcome the clarity in Section 1 of the Bill as introduced.

We believe that removing the defence of 'reasonable punishment' available to parents and some others acting in loco parentis charged with assault of a child is a necessary step because:

- 1 All adults are protected from physical punishment by the law. The existence of the 'reasonable punishment' defence in the Children Act 2004 is an anachronistic anomaly which fails to respect children's human rights and leaves vulnerable children at risk.

Removal of a defence that has no place in 21st Century Wales is the logical next step.

- 2 Extensive research evidence shows that not only is physical punishment ineffective in managing children's behaviour, but it can cause considerable harm (see for example Heilmann, A., Kelly, Y. and Watt, R.G. (2015) *Equally protected?: a review of the evidence on the physical punishment of children*. London: NSPCC. <https://learning.nspcc.org.uk/research-resources/2015/equally-protected/> and Gershoff, E. T., & Grogan-Kaylor, A. (2016). Spanking and child outcomes: Old controversies and new meta-analyses. *Journal of Family Psychology*, 30(4), 453-469. https://www.researchgate.net/publication/299992592_Spanking_and_Child_Outcomes_Old_Controversies_and_New_Meta-Analyses).

The more than 250 studies covered by the Global Initiative to End All Corporal Punishment of Children's review of research (<https://endcorporalpunishment.org/resources/research/>) on the impact of such punishment show a wide range of negative outcomes for children, parents, families and wider society.

- 3 Professionals working with families – such as health visitors and family centre staff - sometimes see parenting behaviour they are concerned about. At the moment it's hard to give a clear, unequivocal message to the people they are supporting because the law is unclear. Where children are at risk of abuse delaying due to uncertainty could have devastating consequences. All the main child abuse cases that have caused public outrage in recent years – such as Victoria Climbié, Baby Peter Connolly and Daniel Pelka in England, and Yaseen Ali in Cardiff - have had physical punishment as a factor and in many cases neighbours, members of the public, the wider family, or professionals had concerns but felt unable to act.
- 4 It is misleading and unfair to both children and their parents to retain a legal defence that may be seen to condone something potentially harmful, that makes family life more stressful and benefits no-one.
- 5 There is a significant and growing body of evidence to inform our parenting, particularly in the early years. Evidence from psychology and neuroscience has contributed to our understanding that children learn best and thrive within safe, nurturing relationships. Physical punishment as a means of discipline goes against this body of scientific knowledge.

- 6 Physical punishment of children is already banned in schools, in day care and for children looked after in foster care or children homes. This reform will close the loophole that currently allows adults acting in loco parentis in “non-educational settings” (such as Sunday Schools and Madrassas) to use the ‘reasonable punishment’ defence.
- 7 Under the UN Convention on the Rights of the Child (UNCRC), to which the UK government is a signatory, children in Wales have a right to be protected from abuse (Article 19) and to be protected from torture or other cruel, inhuman or degrading treatment or punishment (Article 37). The UN Committee on the Rights of the Child has repeatedly called on the UK to enact legal reform to remove the defence of reasonable punishment and afford children the same protection from assault as adults. This legislative reform will fulfil our government’s obligations under these UNCRC Articles, which state that governments ‘must ensure’ and ‘take all appropriate legislative, administrative, social and educational measures’ to protect the child.
- 8 The UNCRC states that the Convention rights apply to every child without discrimination, whatever their ethnicity, gender, religion, language, abilities or family background (Article 2). Articles 3 and 4 state that the best interests of the child must be the priority for governments and that they must do all they can to ensure that every child’s rights are respected, by passing laws to promote and protect those rights. This reform will give all children in Wales the same level of protection.
- 9 Articles 8 and 9 of the European Convention on Human Rights (ECHR) are qualified rights. Any limitations removal of the ‘reasonable punishment’ defence place upon individual enjoyment of those rights are necessary in order to protect an absolute right of others (Article 3, ECHR) and for the wider good and are lawful, necessary and proportionate.
- 10 Removal of the defence of ‘reasonable punishment’ will raise the status of children and will contribute positively to how they are viewed and treated in society. It will help promote children’s rights in Wales and is consistent with the ‘due regard’ duty in the Rights of Children and Young Persons (Wales) Measure 2011.

1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?

Yes, we believe that legislation is necessary because:

(a) Physical punishment of children is a public health issue

The law has a role in setting standards of behaviour and this applies not only in relation to criminality, but also to tackling key public health issues as already seen with the laws to ban smoking in public places and to make the wearing of seat belts in cars compulsory. There is strong evidence that not only does physical punishment of children have no benefits, but it has the potential to cause long-term harm (see responses to Question 1.2 above and Question 4.1 below), which may have consequences into adulthood.

This makes it a public health - not a private - matter on which governments need to lead rather than be led by public opinion. This has been the case in the 54 countries that have already legislated. Removing the 'reasonable punishment' defence will help professionals working with children and their families to give an unequivocal message, it will support cultural change and give a clear message that physical punishment is not acceptable.

(b) Legal clarity is needed to support public education and professionals working with families

International experience shows that public education alone does not achieve the desired change in behaviour. While Welsh Government's own research and the experience of Equal Protection Network Cymru member organisations is that parenting behaviour is changing significantly, reform is needed in order to reach the parents who are most resistant to positive parenting messages, to encourage parents who may use physical punishments only under stress to recognise that they need to take steps to address what is happening, and to allow earlier intervention where a child is at risk of abuse.

(c) The current law fails to protect vulnerable children who are at risk

The vulnerability of children makes it even more vital that the law protects them if they are subject to physical abuse, making the existing anomaly of giving them less legal protection illogical. The existence of the 'reasonable punishment' defence undermines child protection and fails to protect children 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 don't report something they are told is permitted by the law or can be justified.

- Those witnessing violence to children have little confidence in either intervening themselves or reporting it to the authorities.
- Parents receive confusing messages about the legitimacy of hurting their children.
- It fails to protect children from painful, dangerous, humiliating or frequent assaults and sends them the message that hitting people is acceptable.
- It undermines initiatives to reduce domestic abuse and tolerance of violence in society 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, and that they have a right to 'Live Fear Free'. It establishes a narrative that sometimes people 'deserve' to be hit or hurt.

(d) The existence of the 'reasonable punishment' defence is a breach of children's human rights

The human rights imperative to legislate is clear. Protection from physical violence is a universal human right.

In 2006, the UN Committee on the Rights of the Child adopted General Comment No. 8 (**General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)** (CRC/C/GC/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" and children should have at least the same level of protection as adults. If punishing an adult physically is prohibited, it is unacceptable that the law apparently condones such punishment of a child.

The UN Committee on the Rights of the Child has made it clear that all physical punishment, however light, constitutes violence against children. It has specifically addressed the issue of 'reasonable punishment' and similar legal defences, emphasising that "the Convention requires the removal of any provisions (in statute or common - case law) that allow some degree of violence against children (e.g. "reasonable" or "moderate" chastisement or correction), in their homes/families or in any other setting".

The UK as the State Party has been told repeatedly by international human rights treaty bodies that it must remove the defence of 'reasonable punishment.' Such recommendations come from bodies including:

- UN Committee on the Rights of the Child (four times: 1995, 2002, 2008 and 2016).
- UN Human Rights Committee (2015).

- UN Committee on Economic, Social and Cultural Rights (twice: 2002 and 2009).
- UN Committee Against Torture (2013).
- UN Committee on the Elimination of Discrimination against Women (twice: 2008 and 2013).
- European Committee of Social Rights (three times: 2005, 2012 and 2015).

The UK has also received repeated recommendations from other states to prohibit all corporal punishment in the Universal Periodic Review by the Human Rights Council in Geneva (three times: 2008, 2012 and a record seven recommendations in 2017).

International human rights bodies are unequivocal in stating that children have the same right to legal protection from assault as adults. The right applies no matter where a child is born, what culture they are raised in or what religion they or their family follow – all children have the right to protection from violence (UNCRC, Articles 2, 3, 4).

The research evidence showing the damaging impacts of physical punishment is compelling and demonstrates the strength of the public health, parenting and child protection case for reform. The fundamental issue, however, is one of the human rights of children.

2 The Bill’s implementation

2.1 Do you have any comments about any potential barriers to implementing the Bill?

We do not foresee any potential barriers to implementing the Bill, although we recognise that there are a number of issues which will need to be specifically addressed in order to facilitate its effective implementation. Experience from other countries that have introduced similar reforms, as well as experience in Wales when legislation has been introduced – for example on smoking in public places or in cars carrying children – is encouraging. It is likely that the decreasing percentage of parents who still occasionally smack will be guided by the law and that use of physical punishment will become even less prevalent. Adequate information and support will be needed as well as training for professionals and practitioners who may have anxieties about the change. The focus should remain on positive approaches to raising children, not on alternative punishments.

The key issues which we believe need to be adequately addressed are:

1 Effective public education

We recognise that Welsh Government has taken significant action over a period of many years to promote positive parenting messages, however we are concerned that the reach of the key mechanisms identified in the Explanatory Memorandum for promotion of the messages in relation to implementation of the legislation is limited. Great emphasis needs to be placed on integrating the message into the public education messages across governmental departments. While we welcome the Welsh Government's Parenting. Give it time. initiative, its reach is limited.

2 Engagement with universal services

The percentage of parents who access Flying Start or programmes funded through Families First is small, so engagement with the services which engage with virtually all parents and families, such as health and education professionals is essential. Midwives, health visitors, and GPs, as well as childcare providers, teachers and other staff working in schools and education are key communicators with parents - including those who are hard to reach - and need to be engaged and skilled up to provide clear support and advice to parents. Research tells us that universal services are best placed to reach out to families who live on the margins with, for example, a trusted health visitor delivering key messages about the parenting of children.

3 Reassuring families and countering misleading information

In Wales as in many other countries there has been some anxiety about how the change in the law would work in practice and what this means for ordinary families, some of whom may currently use physical punishment in the mistaken belief that it is an effective form of discipline. We are encouraged that Welsh Government is looking at this as part of its communications strategy, but remain concerned that some parents will become unnecessarily worried about the impact of the change in the law because of misleading information from some who argue against this reform.

We agree with the Welsh Government's statement in the Explanatory Memorandum that the removal of the defence will not prevent parents from intervening in order to keep their child safe, to move them from danger or to prevent their child from causing harm to another person or property. Such physical interventions are not punishments. Normal parenting behaviour would not be affected by removal of the defence.

4 Reaching those who are 'hard to reach'

During the implementation period, promoting information about the change in legislation through professional groups and organisations working with parents and

carers will be important. This is particularly the case for families whose material circumstances or health needs, or their language or culture, mean that they do not routinely access mainstream sources of information and services.

Clear guidelines need to be in place for professionals to convey the information appropriately and effectively and the part played by face-to-face interactions in informing parents, the wider family and communities should not be ignored. In the lead up to implementation specific efforts need to be made to reach those who are receiving, or require, support and challenge in relation to their child management behaviours. They may be the most vulnerable to prosecution if they currently use physical punishment and are therefore a key cohort to be supported to understand the meaning of the change. The removal of the ambiguity engendered by the current legal position will help staff to provide a clear message that there is no reason to physically punish children. It's likely that a clear message will also be helpful for those parents and carers receiving services.

5 Tracking progress

Given Welsh Government's commitment to prohibiting the physical punishment of children there needs to be a way of measuring the impact of the change in the law and any associated public education initiatives. Few of the countries who have changed the law have ensured that mechanisms for tracking progress are in place from the outset. Part of the remit of the Equal Protection Network Cymru is to consider how this can be achieved in the longer term. However, through a baseline study on prevalence followed by regular follow-up studies the impact of public education work can be monitored and any priority areas identified or gaps addressed during the period before the reform comes into force.

2.2 Do you think the Bill takes account of these potential barriers?

Yes, to the extent that any short Bill can. The Explanatory Memorandum together with the Welsh Government's 2018 consultation document Legislative Proposal to Remove the Defence of Reasonable Punishment evidences the breadth of issues considered as part of the process of developing the legislation. Members of the Equal Protection Network Cymru have been involved in a wide range of work in related areas since devolution. Wales is in a fortunate position in comparison to many other countries that consider reform. Often there is little time to consider preparatory work in advance, or the reform comes – as was the case in Lithuania – following the tragic death of a young child. As stressed in response to the

previous question, public education and adequate support for professionals, as well as families, to accompany reform is a key mechanism for overcoming barriers.

3 Unintended consequences

3.1 Do you think there are there any unintended consequences arising from the Bill?

If no, go to question 4.1

No. The Explanatory Memorandum evidences detailed discussions between Welsh Government and the public bodies that will be affected and the Regulatory Impact Assessment forecasts potential costs. Both the Explanatory Memorandum and the public consultation document and process demonstrated the consideration given to wide range of possibly unforeseen impacts and potential pitfalls. International experience of introducing similar reforms is overwhelmingly positive.

In each of the 54 states legislation was enacted ahead of public opinion, with governments and legislatures showing strong leadership. It is worth noting that in not one of those countries has reform been reversed, even after a change of government or when campaigns to undermine or repeal the law are ongoing. Neither have concerns about mass prosecutions or increasing numbers of unruly children been shown to have been valid once the law was in place. Parents are still be able to keep their children safe and teach them right from wrong.

Fears that there will be huge increases in inappropriate convictions for ‘trivial smacks’ haven’t been borne out. The main purpose of changing the law is to stop children being hit or hurt in the first place, to change behaviour and help families get support; not to prosecute parents after the event. Public education and parenting programmes have a significant part to play, and we have already made a lot of progress on this in Wales.

International experience shows that after changing the law, fewer and fewer parents use physical punishments and attitudes change. We know that attitudes are already changing in Wales. The vast majority of parents will be guided by the law.

4 Financial implications

4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)?

The assessment of the financial implications of the Bill appears comprehensive, however we believe that some of the long-term potential cost savings of earlier intervention may offset some of the costs identified.

In response to Question 1.2 we reference the growing body of research evidence on the potential negative effects on a child of experiencing physical punishment. The effects which currently result in a demand for a range of services and resources include:

- Direct physical harm.
- Indirect physical harm - unintended accidents and injuries as a result of misjudged smacks (e.g. a child falling or moving away from a smack).
- Increased aggression in children.
- Poor moral internalisation and increased antisocial behaviour.
- Perpetration and experience of violent, antisocial and criminal behaviour in adults.
- Normalisation of casual violence as an appropriate way of controlling the behaviour of others, particularly family members.
- Psychological harm and long-term impacts on self-esteem, well-being and mental health.
- Impaired cognitive development.
- Damage to the parent child relationship.

The services currently dealing with the consequences of the effects of physical punishment include:

- Schools and teachers
- Midwives and health visitors
- GPs
- Hospitals, ambulance and other emergency services
- Services for pupils with additional learning needs
- Child and adolescent mental health services (CAMHS)
- Adult mental health services
- Drug and substance misuse services
- The Police and criminal justice
- Local authority children's services, child protection and the Family Court
- Domestic abuse services
- Family support services
- Housing and community support services

Removing the ‘reasonable punishment’ defence would have a positive impact on the effective delivery of the above services and a consequent reduction in demands on resources.

While some of the consequences listed above result from persistent or serious use of hitting and smacking as a form of punishment, and an associated negative parenting style, it is important not to fall into the trap of an ‘it never did me any harm’ argument. Laws need to apply across the population.

This legislative change will enable earlier intervention in the lives of children experiencing physical abuse and will reduce the cost of late intervention services.

Figures obtained by the NSPCC from the Early Intervention Foundation found that the overall financial cost of late intervention with children and young people to Wales was £1.15bn in 2014/15.

There is no such thing as a safe smack and no one can predict what the threshold for causing psychological and emotional harm will be for an individual child or which parents do or don’t know when they have crossed the line or can make that judgement under extreme pressure. Lessons learnt in childhood, including the lesson that deliberately hurting or hitting another person can be an appropriate way of expressing displeasure or controlling their behaviour, can last a lifetime.

Wales’ first Adverse Childhood Experiences (ACEs) survey interviewed approximately 2,000 people (aged 18-69 years) from across Wales at their homes. The report published in 2015 (<http://www.wales.nhs.uk/sitesplus/888/page/88504>) identified that substantial proportions of the Welsh population suffered ACEs during their childhood with almost half of those surveyed (47%) reporting having experienced at least one ACE and 14% experiencing four or more ACEs. One of the ACEs is physical abuse and the research found that 17% of adults in Wales experienced physical abuse during their childhoods. It also shows that ACEs increase individuals’ risks of developing health-harming behaviours – compared with people with no ACEs, those with 4+ ACEs are 15 times more likely to have committed violence against another person in the last 12 months, 16 times more likely to have used crack cocaine or heroin and 20 times more likely to have been incarcerated at any point in their lifetime. We believe that this legislative change will lessen parent’s use of physical punishment and also reduce the number of children experiencing physical abuse.

5 Other considerations

5.1 Do you have any other points you wish to raise about this Bill?

We welcome this legislation and believe that it will make a significant difference to the lives of children and families in Wales. We hope that there will not be a prolonged delay before its provisions come into force.

Information about Equal Protection Network Cymru

The Children's Equal Protection Against Physical Punishment Network Cymru – known as Equal Protection Network Cymru or Rhwydwaith Amddiffyniad Cyfartal Cymru - is a newly formed network of organisations, professional associations, practitioners and academics working to support the effective introduction, implementation and longer term evaluation of legislation to give children and young people in Wales the same level of protection from physical punishment as is currently enjoyed by adults.

Equal Protection Network Cymru is in many respects a successor organisation to the 'Sdim Curo Plant/Children are Unbeatable Cymru (CAU Cymru) alliance, although there will be differences in its membership and remit. The principal aim of the CAU Cymru alliance was achieved when Welsh Government made the commitment to legislate and their public consultation exercise was concluded in April 2018, after which funding for the policy advocacy work of CAU Cymru ceased. CAU Cymru continues as a volunteer-led social media campaign supportive of the Children Wales Bill and of positive approaches to raising children. The new Equal Protection Network Cymru will ensure that the multi-disciplinary, evidence-based, co-ordinated and collaborative model which worked successfully during the campaign for legislation is replicated and built upon during the next stage in achieving this important milestone for children's rights and protection from violence and abuse.

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

Tystiolaeth i'r Pwyllgor Plant, Pobl Ifanc ac Addysg ar gyfer craffu Cyfnod 1 (Saesneg yn unig)	Evidence submitted to the Children, Young People and Education Committee for Stage 1 scrutiny
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Organisation: Children's Commissioner for Wales

1 The Bill's general principles

1.1 Do you support the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill?

Yes

1.2 Please outline your reasons for your answer to question 1.1

(we would be grateful if you could keep your answer to around 1000 words)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?

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

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

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

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

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

2 The Bill's implementation

2.1 Do you have any comments about any potential barriers to implementing the Bill? If no, go to question 3.1

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

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

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

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

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

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

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

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

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

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

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

2.2 Do you think the Bill takes account of these potential barriers?

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

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

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

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

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

The key messages were as follows:

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

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

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

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

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

3 Unintended consequences

3.1 Do you think there are there any unintended consequences arising from the Bill? If no, go to question 4.1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Financial implications

4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)? If no, go to question 5.1

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

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

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

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

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

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

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

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

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

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

5 Other considerations

5.1 Do you have any other points you wish to raise about this Bill?

(we would be grateful if you could keep your answer to around 1000 words)

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

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

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

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

"Children should be protected not smacked"

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

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

"you should talk and explain so that they don't do the same thing again"

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

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

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

Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education



Lynne Neagle AM,
Cadeirydd
Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Tŷ Hywel
Bae Caerdydd
CF99 1NA

Llywodraeth Cymru
Welsh Government

29th Mawrth 2019

Annwyl Lynne,

Cytunais i ysgrifennu atoch i roi'r wybodaeth ddiweddaraf am y papur tystiolaeth a ddarparwyd yn ystod Ymchwiliad *Cyrraedd y nod?* y Pwyllgor ar ddata cyrhaeddiad Cyfnod Allweddol 4 2018.

Er nad yw'n bosibl cymharu ein data â hen ddata oherwydd y newidiadau sylweddol yn y mesurau perfformiad, rydym wedi gallu dadansoddi rhai elfennau. Yn 2017-18, roedd y gwaith dadansoddi yn dynodi bod y newidiadau a wnaed i'r mesurau perfformiad yn effeithio'n anghymesur ar ddysgwyr a oedd yn cael prydau ysgol am ddim; a bod y cap ar gyfraniad cymwysterau galwedigaethol yn cael effaith benodol ar drothwy Lefel 2.

Rydych eisoes yn ymwybodol bod data 2017-18 yn dangos y byddai cael gwared ar y cap yn gwella perfformiad Lefel 2 dysgwyr sy'n gymwys i gael prydau ysgol am ddim 8.5 pwynt canran o gymharu â 4.4 pwynt canran yn achos dysgwyr nad ydynt yn gymwys i gael prydau ysgol am ddim. Mae'r gwaith dadansoddi ar ddata 2018-19 yn dangos y byddai cael gwared ar y cap yn cael llai o effaith, ond y byddai yna welliant, serch hynny, o 6.4 pwynt canran i ddysgwyr sy'n gymwys i gael prydau ysgol am ddim o gymharu â 3.1 pwynt canran i ddysgwyr nad ydynt yn gymwys. Mae'r dangosydd Lefel 2 cynhwysol yn dangos nad yw'r cap wedi effeithio'n sylweddol ar ganlyniadau'r rheini sy'n gymwys i gael prydau ysgol am ddim na'r rheini nad ydynt yn gymwys, ac mai gwahaniaeth bach iawn o 0.1 pwynt canran yn unig sydd dan sylw.

Mae'r cap ar werth cymwysterau nad ydynt yn TGAU ac ar faint cymwysterau unigol nad ydynt yn TGAU wedi cyfrannu at symudiad oddi wrth cymwysterau galwedigaethol i TGAU, gan wrthdroi'r tueddiad a welwyd mewn rhai pynciau dros y blynnyddoedd diwethaf. Y llynedd, 2017-18, gwelwyd mwy o ganlyniadau ar draws pob pwnc gwyddoniaeth wrth i ysgolion baratoi ar gyfer y newidiadau i'r mesurau perfformiad yn 2018-19 lle roedd sgôr capio 9 yn gofyn am 2 TGAU gwyddoniaeth. Roedd canlyniadau haf 2018-19 yn dangos cynnydd yn y nifer a gofrestrodd ar gyfer bioleg, cemeg a ffiseg,

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and responding in Welsh will not lead to a delay in responding.

a chofrestrwyd dros 42,000 ar gyfer y dyfarniad Gwyddoniaeth Ddwbl newydd. Mae'r cynnydd hwn yn y nifer sy'n cofrestru ar gyfer TGAU gwyddoniaeth yn galonogol, gan y bydd gan fwy o bobl ifanc y sgiliau a'r wybodaeth mewn gwyddoniaeth sydd eu hangen arnynt i symud ymlaen i astudiaethau ôl-16 pellach, gan gynnwys Safon Uwch.

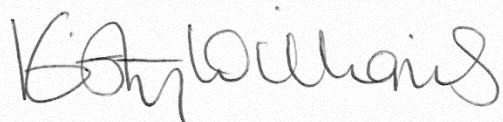
Rwy'n falch ein bod wedi gweld cynnydd o 30% ers 2016 yn nifer y disgyblion sy'n cael prydau ysgol am ddim sydd wedi cael o leiaf un TGAU mewn gwyddoniaeth.

Roeddem yn gwybod y byddai'r newidiadau sylweddol i'r mesurau perfformiad yn gwneud pethau'n anghyson am ychydig, ond mae'n rhy gynnar i ddod i gasgliadau pendant, yn enwedig yng nghyd-destun y newidiadau ychwanegol a welwn i'r cwricwlwm a'r fframwaith atebolwydd. Ar 19 Chwefror eleni, cyhoeddwyd fy [Natganiad Ysgrifenedig ar Werthuso a Gwella](#) - system atebolwydd newydd i godi safonau i bawb – ac mae'n nodi ein cynigion ar gyfer y dyfodol.

Yn fy ymateb i adroddiad y Pwyllgor, cytunais hefyd y byddwn yn ystyried sut y gallai'r ymgais hon i ddiweddarwr drefn gynnwys plant sy'n derbyn gofal. Nid oes gennym y data perthnasol eto i wneud hyn, ond gallaf eich sicrhau y byddwn yn dadansoddi'r data cyn gynted ag y byddant ar gael ac yn eu rhannu â'm swyddogion fel y gallan nhw eu trafod gyda'r consortia addysg rhanbarthol ac eraill.

Rwy'n gobeithio y bydd yr wybodaeth hon o gymorth i'r Pwyllgor.

Yn gywir



Kirsty Williams AC/AM

Y Gweinidog Addysg

Minister for Education

Tabl 1 : Cyfartaledd nifer y TGAU y cofrestrwyd disgylion ar eu cyfer, 2014 i 2018

	Nifer y pynciau						
					Newid	Newid	
					2017 i	2014 i	
	2014	2015	2016	2017	2018	2018	2018
Yn cael prydau am ddim	5.8	5.8	6.1	7.5	7.8	0.3	2.0
Ddim yn cael prydau am ddim	7.9	7.9	8.1	9.1	9.4	0.3	1.5

Tabl 2 : Cyfartaledd nifer y BTEC y cofrestrwyd disgylion ar eu cyfer, 2014 i 2018

	Cyfartaledd y nifer						
					Newid	Newid	
					2017 i	2014 i	
	2014	2015	2016	2017	2018	2018	2018
Yn cael prydau am ddim	2.0	2.0	2.0	1.7	1.4	-0.3	-0.5
Ddim yn cael prydau am ddim	1.7	1.8	1.8	1.6	1.3	-0.2	-0.4

Tabl 3: Canran y disgylion a gofrestrwyd ar gyfer o leiaf un BTEC, 2014 i 2018

	Canran y disgylion						
					Newid	Newid	
					2017 i	2014 i	
	2014	2015	2016	2017	2018	2018	2018
Yn cael prydau am ddim	71.7	76.1	72.0	51.6	41.2	-10.4	-30.4
Ddim yn cael prydau am ddim	56.1	57.5	51.4	35.0	26.1	-8.8	-29.9

Tabl 4 : Canran y disgyblion a gofrestwyd ar gyfer o leiaf un TGAU Gwyddoniaeth, 2013 i 2018

	2013	2014	2015	2016	2017	2018	Newid 2017 i	Newid 2013 i
	2013	2014	2015	2016	2017	2018	2018	2018
Yn cael prydau am ddim	58.5	49.6	48.1	53.5	76.8	91.0	14.1	32.4
Ddim yn cael prydau am ddim	79.0	75.3	74.5	77.7	89.8	97.8	7.9	18.8

Tabl 5 : Canran y disgyblion a gafodd A*-C yn eu TGAU Mathemateg, 2013-2018

	2013	2014	2015	2016	2017	2018	Newid 2017 i	Newid 2013 i
	2013	2014	2015	2016	2017	2018	2018	2018
Yn cael prydau am ddim	33.7	34.5	39.2	43.6	38.3	39.3	1.0	5.7
Ddim yn cael prydau am ddim	65.9	67.7	70.1	73.2	68.6	70.0	1.4	4.2

Tabl 6 : Canran y disgyblion a gafodd A*-C yn eu TGAU Cymraeg neu Saesneg, 2018

	Cymraeg		
	Cymraeg	a Saesneg	
	a Saesneg	laith a	
	laith yn	Llenyddia	Gwahania
	unig	eth	eth
Yn cael prydau am ddim	40.0	43.1	3.2
Ddim yn cael prydau am ddim	71.5	74.3	2.8
Pawb	64.9	67.6	2.8

Tabl 7 : Canran y disgyblion a gyrhaeddodd drothwy L2, 2018

Tudalen y
pecyn
78

	Heb gap		
	ar		
	gyfraniad		
	cymwyste		
	rau		
	Cyhoedd	galwediga	Gwahania
	wyd	ethol	eth
Yn cael prydau am ddim	41.8	48.1	6.4
Ddim yn cael prydau am ddim	73.9	77.1	3.1
Pawb	67.0	70.5	3.5

Tabl 8 : Canran y disgyblion a gyrhaeddodd drothwy L2 cynhwysol, 2018

Mae'r tabl hwn yn dangos effaith y cap ar gymwysterau galwedigaethol.

	Heb gap		
	ar		
	gyfraniad		
	cymwyste		
	rau		
	Cyhoedd	galwediga	Gwahania
	wyd	ethol	eth
Yn cael prydau am ddim	29.5	29.6	0.1
Ddim yn cael prydau am ddim	61.7	61.8	0.1
Pawb	55.1	55.2	0.1

Tabl 9 : Canran y disgyblion a gyrhaeddodd y trothwy L2 cynhwysol, 2018

Mae'r tabl hwn yn dangos effaith y cap ar gymwysterau galwedigaethol a chael gwared ar lenyddiaeth fel cymhwyster sy'n cyfrif tuag at y mesur hwn.

	Heb gap			
	ar			
	gyfraniad			
	cymwyste			
	rau			
	galwediga			
	ethol a			
	chan			
	gynnwys			
	Cyhoedd	Ilenyddiae	Gwahania	
	wyd	th	eth	
Yn cael prydau am ddim	29.5	31.0	1.5	
Ddim yn cael prydau am ddim	61.7	63.2	1.6	
Pawb	55.1	56.6	1.5	

Tabl 10 : L2 cynhwysol mewn perthynas â phrydau am ddim, 2012 i 2018

	2012	2013	2014	2015	2016	2017	2018	Newid	Newid
								2012 i	2017 i
Yn cael prydau am ddim	23.4	25.8	27.8	31.6	35.6	28.6	29.5	12.2	0.9
Ddim yn cael prydau am ddim	56.6	58.5	61.6	64.1	66.8	61.0	61.7	10.3	0.7
Pob disgybl	51.1	52.7	55.4	57.9	60.3	54.6	55.1	9.2	0.5

Nodyn: Nid yw data 2017 a 2018 yn gyson â'r blynnyddoedd blaenorol oherwydd y newidiadau a argymhellwyd

yn sgil yr Adolygiad o Gymwysterau. Darperir y ffigurau hyn er gwybodaeth yn unig.

Tabl 11 : A*-C mewn Mathemateg mewn perthynas â phrydau am ddim, 2012 i 2018

	2012	2013	2014	2015	2016	2017	2018	Newid 2013-	Newid 2012-
	2012	2013	2014	2015	2016	2017	2018	2018	2017
Yn cael prydau am ddim	31.3	33.7	34.5	39.2	43.6	38.3	39.3	5.7	7.0
Ddim yn cael prydau am ddim	63.8	65.9	67.7	70.1	73.2	68.6	70.0	4.2	4.8
Pob disgylbl	58.4	60.3	61.7	64.4	66.9	62.5	63.6	3.2	4.1

Tabl 12 : A*-C mewn Cymraeg neu Saesneg mewn perthynas â phrydau am ddim, 2012 i 2018 (a)

	2012	2013	2014	2015	2016	2017	2018	Newid 2013-	Newid 2012-
	2012	2013	2014	2015	2016	2017	2018	2018	2017
Yn cael prydau am ddim	36.6	37.4	40.4	45.8	47.8	39.4	40.0	2.6	2.7
Ddim yn cael prydau am ddim	69.2	69.9	73.4	75.7	76.6	71.5	71.5	1.6	2.3
Pob disgylbl	63.5	64.0	67.1	70.1	70.4	65.0	64.9	0.8	1.6

(a) iaith yn unig ar gyfer 2017 a 2018.

Tabl 13 : A*-C mewn Cymraeg neu Saesneg a Mathemateg mewn perthynas â phrydau am ddim, 2012 i 2018 (a)

	2012	2013	2014	2015	2016	2017	2018	Newid 2013-	Newid 2012-
	2012	2013	2014	2015	2016	2017	2018	2018	2017
Yn cael prydau am ddim	23.9	26.1	28.0	32.1	35.9	29.1	30.2	4.1	5.2
Ddim yn cael prydau am ddim	57.0	58.8	61.8	64.4	67.1	61.5	62.3	3.4	4.5
Pob disgylbl	51.6	53.1	55.7	58.3	60.7	57.1	57.2	4.1	5.5

(a) iaith yn unig ar gyfer Cymraeg a Saesneg yn 2017 a 2018

Tabl 14 : Canran y disgylion a basiodd o leiaf un TGAU Gwyddoniaeth ar unrhyw radd, 2013-2018

	2013	2014	2015	2016	2017	2018	Newid	Newid
							2017 i	2013 i
							2018	2018
Yn cael prydau am ddim	53.9	46.4	45.8	50.5	72.6	80.5	7.9	26.6
Ddim yn cael prydau am ddim	77.9	74.6	73.8	76.9	88.9	94.7	5.8	16.8

CYPE(5)-13-19 - Papur i'w nodi 2

Eitem 6.2

Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education



Llywodraeth Cymru
Welsh Government

Lynne Neagle AC
Cadeirydd
Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru
Tŷ Hywel
Bae Caerdydd
CF99 1NA

29 Mawrth 2019

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Annwyl Lynne

Ysgrifennaf i ddiolch i'r Pwyllgor Plant, Pobl Ifanc ac Addysg am ei ymateb cynhwysfawr i'r ymgynghoriad ar y Cod Anghenion Dysgu Ychwanegol (ADY) drafft.

Rwy'n ddiolchgar am graffu trylwyr y Pwyllgor ar y Cod ADY drafft, ac mae'n dda bod ymgyssylltiad uniongyrchol y Pwyllgor â rhanddeiliaid trwy sefydlu gweithgor wedi cynorthwyo gyda'r broses hon. Mae'r dull gweithredu hwn yn gyson â sut rydym wedi gweithio gyda rhanddeiliaid gydol y broses o ddatblygu'r rhaglen trawsnewid ADY, gan ganolbwytio ar lunio ar y cyd a chydweithio. Mae'n amlwg bod rhanddeiliaid yn parhau i deimlo'n gryf am y maes hollbwysig hwn o ddiwygio addysg.

Yn ogystal ag ymateb y Pwyllgor, rydym wedi derbyn bron i 700 o ymatebion gan amrywiaeth eang o randdeiliaid. Hefyd, rydym wedi ystyried canfyddiadau'r wyth digwyddiad ymgynghori rhanbarthol, ynghyd â safbwytiau plant, pobl ifanc a rhieni a gasglwyd yn y gweithdai a gomisiynwyd gennym. Cyhoeddir adroddiad 'crynodeb o ymatebion' maes o law, ynghyd ag adroddiadau ar ganfyddiadau'r gweithdai. Hefyd, rwy'n bwriadu cyhoeddi Datganiad Ysgrifenedig ffurfiol yn amlinellu'r camau nesaf ar gyfer sut i ddiwygio'r Cod a'r rheoliadau.

Felly, mae angen ystyried llawer o wybodaeth, ac mae swyddogion yn gweithio'n unol ag amserlen gyfngi er mwyn gwireddu fy ymrwymiad i gyflwyno'r Cod a'r rheoliadau ADY gerbron Cynulliad Cenedlaethol Cymru erbyn diwedd 2019. Y nod yw sicrhau bod darpariaethau'r Ddeddf a'r rheoliadau yn dod i rym ym mis Medi 2020. Er gwaetha'r her sy'n ein hwynebu, mae'r holl wybodaeth sydd wedi'i darparu wedi bod yn hynod ddefnyddiol i'n helpu i ddatblygu Cod a rheoliadau priodol er mwyn darparu system newydd sy'n cefnogi plant a phobl ifanc ag ADY.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

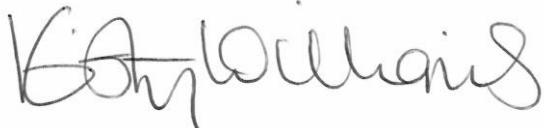
Tudalen y pecyn 82

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and responding in Welsh will not lead to a delay in responding.

Bydd Llywodraeth Cymru yn rhoi ystyriaeth gynhwysfawr a phriodol i'r holl ymatebion i'r ymgynghoriad a'r holl dystiolaeth a dderbyniwyd. Ar yr cam hwn o'r broses, nid wyf yn bwriadu ymateb i bob un o'r pwyntiau sylweddol a gododd y Pwyllgor, gan y bydd angen eu hystyried ochr yn ochr â safbwytiau ymgynghoreion eraill fel rhan o'r dadansoddiad llawn o'r ymgynghoriad.

Edrychaf ymlaen at barhau i weithio gyda'r Pwyllgor ar y materion hyn a materion eraill dros y misoedd nesaf.

Yn gywir



Kirsty Williams AC
Y Gweinidog Addysg

Eitem 6.3

Cynulliad Cenedlaethol Cymru

Y Pwyllgor Plant, Pobl Ifanc ac Addysg

National Assembly for Wales

Children, Young People and Education Committee

Vaughan Gething AC

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,

Llywodraeth Cymru

29 Mawrth 2019

Annwyl Vaughan,

Iechyd Meddwl Plant a'r Glasoed: darpariaeth ar gyfer cleifion mewnol

Diolch am eich llythyr dyddiedig 25 Chwefror mewn ymateb i'm llythyr ynghylch gwasanaethau CAMHS i gleifion mewnol yng Nghymru.

Fel Pwyllgor, rydym yn dal i bryderu'n fawr am y cyfngiadau sydd ar y lleoliadau Haen 4 yn Abergele a Thŷ Llidiard. Mae casgliadau adroddiad thematig Arolygiaeth Gofal Iechyd Cymru, 'Sut y mae gwasanaethau gofal iechyd yn diwallu anghenion pobl ifanc?', a gyhoeddwyd heddiw, yn ategu ein pryderon ynghylch y ddarpariaeth i gleifion yng Nghymru. Testun pryder arbennig i ni yw casgliadau AGIC yn nodi:

- na allent fod yn sicr bob amser bod cleifion yn derbyn gofal diogel ac effeithiol oherwydd iddynt ganfod gwendidau mewn systemau i sicrhau gofal diogel, gan gynnwys systemau ar gyfer cael gafael ar gyfarpar argyfwng;
- eu bod yn poeni am allu presennol unedau CAMHS yng Nghymru i letya pobl ifanc risg uchel, oherwydd heriau yn ymwneud â staffio, yr amgylchedd a rheolaeth ac arweinyddiaeth effeithiol, gyda phryderon bod hyn yn golygu bod rhaid i rai pobl ifanc gael eu lleoli y tu allan i'w hardaloedd.

Rydym yn ddiolchgar am y manylion a ddarparwyd yn eich llythyr, ac yn y llythyrau gan Arolygiaeth Gofal Iechyd Cymru (drwy'r Comisiynydd Plant) a Phwyllgor Gwasanaethau Iechyd Arbenigol Cymru. Fodd bynnag, rydym am gael sicrwydd ar frys gennych chi ynghylch y materion isod:

- yr amserlenni ar gyfer mynd i'r afael â'r materion sy'n peri pryer yn y ddau leoliad;
- y gweithdrefnau sydd ar waith i sicrhau y darperir cymorth da lle y lleolir rhywun y tu allan i'w ardal (gan gynnwys rhagor o fanylion am sut mae'r amrywiol gyrrff sy'n gyfrifol am



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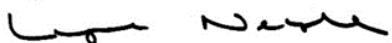
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adolygu darpariaeth yn ymgymryd â'u gwaith - er enghraifft, i ba raddau mae'r gwaith yn cynnwys ymweliadau yn ogystal â gweithgareddau papur?)

Yn gywir,



Lynne Neagle AC

Cadeirydd



Tudalen y pecyn 85

Eitem 6.4

Cynulliad Cenedlaethol Cymru

Y Pwyllgor Plant, Pobl Ifanc ac Addysg

National Assembly for Wales

Children, Young People and Education Committee

Julie Morgan AC

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol

Yr Aelod sy'n gyfrifol am y Bil

5 Ebrill 2019

Annwyl Julie

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Diolch i chi am gadarnhau eich bod ar gael i fod yn bresennol yng nghyfarfod y Pwyllgor ar 2 Mai i drafod Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru).

Cyn y cyfarfod, a sesiynau tystiolaeth lafar dilynol gyda thystion perthnasol eraill, byddai'n ddefnyddiol i gael eglurhad ynghylch rhai cwestiynau penodol. O ystyried natur y cwestiynau a'r amser prin sydd ar gael ar gyfer clywed tystiolaeth lafar, teimlai'r Pwyllgor mai ysgrifennu fyddai'r defnydd mwyaf darbodus o'r amser sydd ar gael. Gweler y cwestiynau perthnasol sydd yn yr Atodiad ynghlwm i'r llythyr hwn.

Byddai'r Pwyllgor yn ddiolchgar o gael ymateb i'r cwestiynau hyn erbyn dydd Mawrth 23 Ebrill.

Yn gywir,

Lynne Neagle AC

Cadeirydd



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Tudalen y pecyn 86

Ymosodiad a churo

- Ar wahanol bwyntiau yn y Memorandwm Esboniadol (e.e. paragraff 1.1 a pharagraff 1.4) dywedir bod y Bil yn diddymu'r amddiffyniad cosb resymol fel amddiffyniad i ymosod ar blentyn neu'i guro. Mae adran 1 o'r Bil yn dileu'r amddiffyniad o gosb resymol mewn perthynas â *chosb gorfforol* i blentyn gan rieni neu'r rheini sy'n gweithredu in loco parentis. Diffinnir cosb gorfforol yn adran 1(5) o'r Bil i olygu curu a wneir fel cosb. A allwch gadarnhau sut y caiff yr amddiffyniad ei ddileu mewn achosion o ymosodiad?

Gweithredu ac anghenion hyfforddi

- Pa asesiad / trafodaethau sydd wedi digwydd gyda CAFCASS am effaith ddisgwylledig y Bil hwn ar eu gwaith a'u rhestr achosion, o ran achosion cyfraith gyhoeddus a phreifat?
- Pa asesiad / trafodaethau a gynhaliwyd gyda chynrychiolwyr y farnwriaeth (y farnwriaeth sifil, y farnwriaeth teulu a'r farnwriaeth droseddol) ynghylch yr anghenion hyfforddi a materion trawsffiniol sy'n codi o weithredu'r Bil hwn?
- A fyddch cystal â rhoi rhagor o fanylion ar:
 - yr asesiadau a gynhaliwyd mewn perthynas ag argaeedd Cyfryngwyr Cofrestredig y mae paragraff 28 o Atodiad 4 o'r Memorandwm Esboniadol yn nodi y mae'n 'rhaid ystyried' eu defnyddio 'ar gyfer pob achos sy'n ymwneud â thyst sy'n blentyn.'
 - y cyfeiriad ym mharagraff 29 o Atodiad 4 o'r Memorandwm Esboniadol at brinder o Gyfryngwyr Cofrestredig ar hyn o bryd, a nifer cyfyngedig iawn o Gyfryngwyr sy'n siarad Cymraeg, ac y 'gallai hyn greu oedi yn y broses'.

Canllawiau a hyfforddiant i weithwyr proffesiynol rheng flaen (para 4.14-4.15 o'r Memorandwm Esboniadol)

- A wnewch ddarparu rhestr o'r holl bolisiau a chanllawiau cyhoeddus perthnasol yng Nghymru yr ydych wedi eu hasesu fel rhai y mae angen eu diweddar os bydd y Bil yn cael ei basio, ynghyd â'r dyddiad y cawsant eu diweddar ddiwethaf?
- A wnewch ddarparu cost amcangyfrifedig diweddar: holl ganllawiau Llywodraeth Cymru mewn perthynas â Gofal Cymdeithasol, Addysg (paragraff 61 o Atodiad 4



i'r Memorandwm Esboniadol), lechyd, Rhianta a'r trydydd sector (paragraff 8.19 o'r Memorandwm Esboniadol)?

- Mae paragraff 8.47 o'r Memorandwm Esboniadol yn cyfeirio at ddiweddaru Gweithdrefnau Diogelu Plant Cymru Gyfan 2002 yn rheolaidd. Ers diwygio'r gweithdrefnau hyn yn 2008, a wnewch chi nodi:
 - pa mor aml y maent wedi'u diweddaru;
 - pryd y cawsant eu diweddaru ddiwethaf;
 - faint o amser a gymerodd y gwaith diweddaru;
 - cyfanswm costau'r gwaith hwn o ran ailddrafftio, dosbarthu a hyfforddi.
- A fyddch cystal â rhoi rhagor o wybodaeth am y costau sy'n gysylltiedig â llwyth gwaith y gwasanaethau cymdeithasol sy'n deillio o baragraff 50 o Atodiad 4 o'r Memorandwm Esboniadol. Mae hwn yn nodi y gall fod cynnydd o ran adrodd am ddigwyddiadau gan 'unigolion yn y gymuned a sefydliadau fel ysgolion' yn unol â'r 'ddyletswydd i roi gwylod' yn y Ddeddf Gwasanaethau Cymdeithasol a Llesiant.
- Pa drafodaethau a gynhaliwyd gyda Gwasanaeth Erlyn y Goron ynghylch diwygio'r Safon Gyhuddo am Droseddau yn erbyn y Person i sicrhau nad yw Adran 58 o Ddeddf Plant 2004 yn gymwys yng Nghymru yn unol â pharagraff 3.23 o'r Memorandwm Esboniadol? Faint o amser fydd yr adolygiad hwn yn ei gymryd, faint y disgwylir iddo ei gostio a phwy fydd yn gyfrifol am y gost hon?
- Pa drafodaethau a gynhaliwyd gyda'r Heddlu ynghylch y canllawiau diwygiedig y cyfeiriwyd atynt ym mharagraff 15 o Atodiad 4 o'r Memorandwm Esboniadol? Faint o amser fydd yr adolygiad hwn yn ei gymryd, faint y disgwylir iddo gostio a phwy fydd yn gyfrifol am y gost hon?
- Pa drafodaethau sydd wedi'u cynnal â'r Heddlu ynghylch y gwahaniaeth yn y gofynion cofnodi rhwng Cymru a Lloegr ar gyfer y gronfa ddata genedlaethol Gorfodi'r Gyfraith y cyfeiriwyd ati ym mharagraffau 14 a 15 o Atodiad 4 o'r Memorandwm Esboniadol? Sut y cafodd dichonoldeb y gwaith hwn ei asesu, faint y disgwylir iddo ei gostio a phwy fydd yn gyfrifol am y gost hon?
- A wnewch roi manylion unrhyw gostau sy'n gysylltiedig â mynd ar gwrs fel rhan o rybuddiad amodol y cyfeirir ato ym mharagraff 21 o Atodiad 4 o'r Memorandwm Esboniadol? A fydd angen datblygu cwrs ar gyfer y math hon o drosedd? Os bydd, pwy y disgwylir a fydd yn datblygu ac yn ariannu'r cwrs hwn?



- A fyddch cystal â rhoi manylion ar y cynnydd o ran datrysiau cymunedol y cyfeirir atynt ym mharagraff 24 o Atodiad A y Memorandwm Esboniadol a'r costau sy'n gysylltiedig â'r rhain?

Ymgyrch codi ymwybyddiaeth a chostau (paragraffau 3.63-3.66 o'r Memorandwm Esboniadol).

- A wnewch roi eglurhad o ran y gynulleidfa darged ar gyfer yr ymgyrch codi ymwybyddiaeth?
- A fyddch cystal â rhoi manylion y dulliau a'r costau ar gyfer codi ymwybyddiaeth ymysg y rheini sy'n ymweld â Chymru, sut y caiff hyn ei gyflawni a'r costau sy'n gysylltiedig â hyn am dair blynedd (paragraff 9.2 o'r Memorandwm Esboniadol)?
- A fyddch cystal â rhoi manylion yr asesiad a wnaed ynghylch a ddylid cynnwys yr ymgyrch codi ymwybyddiaeth hon ar wyneb y Bil?

Grŵp Gweithredu (paragraff 8.9 o'r Memorandwm Esboniadol)

- A fyddch cystal â rhoi manylion am rôl, aelodaeth a chylch gorchwyl y Grŵp Gweithredu a pha mor aml y mae wedi cwrdd hyd yma, ac amlinelliad o'r rhesymau pam na chafodd y wybodaeth hon ei chynnwys yn y Memorandwm Esboniadol?

Arall

- O ran paragraff 3.42 o'r Memorandwm Esboniadol, a ydych yn sicr bod pob cyfeiriad academaidd arall wedi'i gynrychioli'n gywir?
- A wnewch roi rhagor o eglurder ynghylch data a gyhoeddwyd, y cyfeirir ato ym mharagraff 8.20 o'r Memorandwm Esboniadol yn Seland Newydd o ran achosion a gofnodwyd gan y gwasanaeth heddlu cyn y daeth y newid i'r gyfraith i rym, ac ar ôl hynny?



Eitem 6.5

Julie Morgan AC/AM

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services



Ein cyf: MA-L/JM/194/19

Llywodraeth Cymru
Welsh Government

Lynne Neagle AC
Cadeirydd
Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru

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5 Ebrill 2019

Annwyl Lynne

Yn dilyn cyflwyno Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru) i'r Cynulliad Cenedlaethol ar 25 Mawrth 2019, rwy'n ysgrifennu i roi rhagor o wybodaeth ichi mewn perthynas â data gwasanaethau cymdeithasol y rhoddir sylw iddynt yn yr Asesiad Effaith Rheoleiddiol sy'n gysylltiedig â'r Bil.

Darperir yr wybodaeth hon i helpu'r Pwyllgor wrth gynnal eu gwaith craffu ar y Bil.

Nid yw Llywodraeth Cymru wedi gallu pennu llinell sylfaen nifer yr achosion o gosbau rhesymol a gaiff eu cyfeirio at adrannau'r gwasanaethau cymdeithasol, gan ddefnyddio data presennol y gwasanaethau cymdeithasol. Gan fod amddiffyniad cosb resymol yn bodoli ar hyn o bryd, nid yw adrannau gwasanaethau cymdeithasol yng Nghymru yn casglu gwybodaeth am gosbau corfforol yn benodol. Felly, nid oes data a gyhoeddwyd neu sydd ar gael yn rhwydd i'w defnyddio fel llinell sylfaen.

Rydym wedi cynnal llawer o waith i geisio pennu llinell sylfaen ar gyfer achosion a gyfeirir at y gwasanaethau cymdeithasol. Fel rhan o'r gwaith hwnnw ar y cyd â'r awdurdodau lleol, rydym wedi dod i wybod nad yw'r awdurdodau lleol o reidrwydd yn cofnodi'r manylion penodol am achos a gyfeirir nac yn cofnodi achos yn y lle cyntaf ar ffurf y gellir chwilio amdano. Mae manylion pob achos, cofnod neu adroddiad fel arfer yn cael eu cadarnhau yn nes ymlaen yn y broses. Mae hyn wedi creu heriau wrth geisio gwahanu'r data sy'n ymwneud â chosbi plant yn gorfforol lle byddai amddiffyniad cosb resymol yn berthnasol.

Mae'r ffordd y mae achosion yn cael eu cofnodi yn amrywio ymhli y 22 o awdurdodau lleol. Er enghraift, mae rhai ohonynt yn cofnodi'r manylion o dan faterion amddiffyn plant, ac eraill o dan faterion lles plant neu o dan gategoreiddiadau eraill.

Rydym wedi ystyried nifer o opsiynau er mwyn inni gael hyd i ddata perthnasol y gellid eu defnyddio fel amcan agos ar gyfer llinell sylfaen, ond nid ydym eto wedi gallu pennu set ddata sylfaenol presennol sy'n ddigon cadarn.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

Tudalen y pectyn 90

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and responding in Welsh will not lead to a delay in responding.

Rydym yn bwrw ymlaen â'r gwaith hwn, ac wrthi ar hyn o bryd yn cydweithio â rhai o'r awdurdodau lleol i geisio pennu llinell sylfaen ddigon manwl, sy'n seiliedig ar y dull yr oedd y pedwar heddlu yng Nghymru wedi gallu ei ddefnyddio wrth ddadansoddi eu data.

Byddaf yn rhoi'r wybodaeth ddiweddaraf ichi am y broses i bennu llinell sylfaen ar gyfer data gwasanaethau cymdeithasol wrth i'r wybodaeth ddod i law, ac edrychaf ymlaen at gyflwyno tystiolaeth i'r pwylgor maes o law.

Rwy'n anfon copi o'r llythyr hwn at gadeiryddion y pwylgorau Cyllid a Materion Cyfansoddiadol a Deddfwriaethol, gan eu bod nhw'n craffu ar y Bil hwn hefyd.

Yn gywir



Julie Morgan AC/AM

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services

Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA(P)/KW/1131/19

Lynne Neagle AC
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5 Ebrill 2019

Annwyl Lynne

Yn ystod gwaith craffu eich pwyllgor ar y Bil Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru), gwnaed ymrwymiad i roi gwybodaeth reolaidd am y rhaglen i drawsnewid y system Anghenion Dysgu Ychwanegol (ADY). Dyma'r chweched llythyr i roi'r diweddariadau hyn.

1. Deddfwriaeth a chanllawiau statudol

Fel y gwyddoch, cafodd yr ymgynghoriad ar y Cod ADY drafft a nifer o'r rheoliadau arfaethedig i'w gwneud o dan y Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 ei gynnal rhwng 10 Rhagfyr 2018 a 22 Mawrth 2019.

Ysgrifennais at y Pwyllgor ar 29 Mawrth i ddiolch yn fawr i chi am eich ymateb i'r ymgynghoriad hwn. Fel y nodwyd yn y llythyr hwnnw, bydd adroddiad ffurfiol yn cael ei gyhoeddi maes o law yn crynhoi'r ymatebion i'r ymgynghoriad ar y Cod ADY drafft, ynghyd ag adroddiadau ar y sylwadau a gasglwyd yn y gweithdai a gynhalwyd yn ystod y cyfnod ymgynghori gyda phlant, pobl ifanc a rhieni ac yn y digwyddiadau rhanbarthol i randdeiliaid (gweler isod am ragor o fanylion). Rwyf hefyd yn bwriadu cyhoeddi Datganiad Ysgrifenedig yn amlinellu'r camau nesaf o ran diwygio'r Cod a'r rheoliadau. Mae fy swyddogion bellach yn cynnal dadansoddiad llawn o'r holl ymatebion a ddaeth i law. Y bwriad o hyd yw gosod y Cod a'r rheoliadau gerbron y Cynulliad i'w cymeradwyo yn nes ymlaen eleni.

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0300 0604400

Gohebiaeth.Kirsty.Williams@llyw.cymru
Correspondence.Kirsty.Williams@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and responding in Welsh will not lead to a delay in responding.

2. Cymorth gweithredu / trosglwyddo

Mae'r Arweinwyr Trawsnewid ADY wedi cyflwyno cyfres o ddogfennau sy'n tynnu sylw at arfer da ac yn crynhoi'r gweithgarwch trawsnewid a wnaed yn eu rhanbarthau yn ystod 2018/19. Maent hefyd yn darparu diweddarriadau deufisol i Grŵp Arweinwyr Trawsnewid y System ADY ar y cynnydd a wnaed o ran eu cynlluniau rhanbarthol a'u cynlluniau addysg bellach. Mae'r Grŵp, sy'n cynnwys Cyfarwyddwyr Addysg o ardaloedd y consortia a Colegau Cymru, yn helpu i ddatblygu a chyflwyno dulliau gweithredu cyson ar draws Cymru, ac mae'n hollbwysig o ran sbarduno gwaith yr arweinwyr trawsnewid a'r rhaglen drawsnewid ehangach.

Cynhaliwyd sesiynau herio ac adolygu ym mhob un o'r rhanbarthau yn ystod y chwarter cyntaf i fonitro datblygiad pob prosiect ar draws Cymru. Mae'r hyn a ddysgwyd o'r sesiynau hyn yn cael ei ddefnyddio i lywio'r rhaglen waith ar gyfer 2019/20.

3. Datblygu'r gweithlu

Ymgynghorwyd ar reoliadau Cydlynnydd ADY (CADY) drafft fel rhan o'r ymgynghoriad ar y Cod drafft, a bydd yr ymatebion a gafwyd yn cael eu cynnwys yn y dadansoddiad a gynhelir gan swyddogion ar hyn o bryd o'r ymatebion i'r ymgynghoriad ar y Cod drafft.

Mae'r rôl y Cydlynnydd ADY yn hollbwysig i lwyddiant y system ADY newydd ac rydym wedi ymrwymo i gefnogi'r gweithlu hwn trwy ddysgu proffesiynol. Mae swyddogion yn parhau i weithio gydag awdurdodau lleol a chonsortia addysg rhanbarthol i ddatblygu cynnig dysgu proffesiynol ar gyfer y Cydlynnydd ADY.

Mae Llywodraeth Cymru wedi comisiynu Eliesha i ddatblygu deunyddiau hyfforddiant ar gyfer gweithredu ADY. Mae'r deunyddiau hyn wedi'u rhannu'n bedair lefel, a phob lefel yn targedu gwahanol ymarferwyr. Caiff lefel 1 ei chyhoeddi cyn diwedd tymor yr hydref 2019/20.

4. Codi ymwybyddiaeth

Ym mis Chwefror, cynhaliwyd cyfres o ddigwyddiadau ymgynghori ledled Cymru ar y Cod drafft. Roedd pob digwyddiad yn gyfle i randdeiliaid gyfrannu at yr ymgynghoriad a chael yr wybodaeth ddiweddaraf am y rhaglen i drawsnewid ADY.

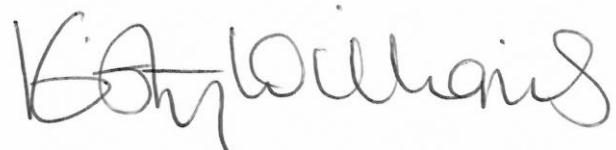
Roedd y digwyddiadau'n cynnwys gweithdai ar agweddau penodol ar y Cod ADY drafft, gan gynnwys:

1. Amserlenni
2. Rôl y Cydlynnydd ADY
3. Swyddog Arweiniol ADY y Blynnyddoedd Cynnar
4. Lleoliadau arbenigolarbenigol ôl-16
5. Cyngor a gwybodaeth, datrys anghytundebau ac eiriolaeth annibynnol
6. Iechyd a'r Swyddog Arweiniol Clinigol Dynodedig Addysg

Gwnaeth dros 1,000 o randdeiliaid wneud cais am docynnau i'r digwyddiadau, ac roedd dros 800 ohonynt yn bresennol. Cafodd y cyflwyniadau o'r digwyddiadau yng ngogledd Cymru eu ffrydio'n fyw ar-lein drwy Periscope, ac fe'u gwyliwyd dros 700 o weithiau.

Yn ogystal, cynhalwyd cyfres o weithdai ar ein rhan gyda phlant, pobl ifanc a'u teuluoedd gan gontactiwr allanol annibynnol, er mwyn sicrhau bodd eu sylwadau nhw ar y cynigion hefyd yn cael eu hystyried.

Yn gywir

A handwritten signature in black ink, appearing to read "Kirsty Williams".

Kirsty Williams AC/AM

Y Gweinidog Addysg
Minister for Education

Cynulliad Cenedlaethol Cymru

Pwyllgor yr Economi, Seilwaith a Sgiliau

National Assembly for Wales

Economy, Infrastructure and Skills Committee

Lynne Neagle AC

Cadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg
drwy'r e-bost

11 Ebrill 2019

Annwyl Lynne,

Rwy'n ysgrifennu i rannu gyda'r Pwyllgor Plant, Pobl Ifanc ac Addysg ein hadroddiad ar Ymchwil ac Arloesedd yng Nghymru a gyhoeddwyd ar 11 Ebrill.

Yr adroddiad yw cyfraniad Pwyllgor yr Economi, Seilwaith a Sgiliau i'r rhaglen waith y mae ein Pwyllgorau wedi cytuno i ymgymryd â hi i baratoi ar gyfer diwygiadau arfaethedig Llywodraeth Cymru i addysg ôl-orfodol.

Rydym yn rhagweld cael ymateb Llywodraeth Cymru cyn diwedd mis Mai. O ystyried bod y materion hyn yn debygol o gael cryn sylw pan gyhoeddir y ddeddfwriaeth, nid ydym yn bwriadu cynnal dadl yn y Cyfarfod Llawn ar yr adroddiad penodol hwn.

Dymuniadau gorau,



Russell George AC



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Tudalen y pecyn 95

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Eitem 6.8

Y Gwir Anrh/ Rt Hon Mark Drakeford AC/AM
Prif Weinidog Cymru/First Minister of Wales

Eich cyf/Your ref:
Ein cyf/Our ref: MA-P/FM/1522/19



Llywodraeth Cymru
Welsh Government

Lynne Neagle, AC/AM
Cadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
Caerdydd
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SeneddCYPE@assembly.wales

16 Ebrill 2019

Annwyl Lynne,

Gwella canlyniadau ar gyfer plant sy'n derbyn gofal

Rwy'n ysgrifennu mewn ymateb i'ch llythyr ar 28 Mawrth ynglŷn â'r gwaith sy'n cael ei wneud i ddatblygu fy ymrwymiad ar gyfer plant sy'n derbyn gofal.

Fel y gŵyr y Pwyllgor, mae Grŵp Technegol wedi'i sefydlu i lywio ein gwaith o ddatblygu cynlluniau pwrrpasol ar gyfer y disgwyliadau o ran lleihau nifer y plant sy'n derbyn gofal ym mhob awdurdod lleol yng Nghymru. Mae'r grŵp, sy'n cynnwys cynrychiolaeth o lywodraeth leol a'r trydydd sector wedi cyfarfod dair gwaith.

Mae'r Grŵp Technegol wedi datblygu fframwaith sgwrs a phroffil o ddata plant sy'n derbyn gofal ar gyfer bob awdurdod lleol yng Nghymru. Sefydlwyd tîm Ymgysylltu Technegol a fydd yn ymweld â phob awdurdod lleol yn ystod mis Ebrill a mis Mai. Bydd trafodaethau yn cyfrannu at ddatblygu cynllun pwrrpasol ar gyfer y disgwyliadau o ran lleihau nifer y plant sy'n derbyn gofal, sydd wedi'i gyd-gynhyrchu ar gyfer pob awdurdod lleol yng Nghymru.

Wrth gwrs, rwy'n hapus i barhau i roi'r wybodaeth ddiweddaraf i'r Pwyllgor ynglŷn â datblygiadau yn y maes gwaith hwn.

Yn gywir

MARK DRAKEFORD

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and responding in Welsh will not lead to a delay in responding.

Tudalen y pectyn 96

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Deisebau

National Assembly for Wales
Petitions Committee

Lynne Neagle AC
Cadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
Caerdydd
CF99 1NA

18 Ebrill 2019

Annwyl Lynne

Deiseb P-05-872 Dylid diogelu cyllid ysgolion neu gyfaddef bod y gwasanaeth a ddarperir yn gwanhau

Trafododd y Pwyllgor Deisebau y ddeiseb uchod am y tro cyntaf yn ei gyfarfod ar 2 Ebrill. Cafodd y ddeiseb dros 5,000 o lofnodion, ond nododd yr Aelodau fod ymchwiliad y Pwyllgor Plant, Pobl Ifanc ac Addysg i gyllid ysgolion yn edrych yn fanwl ar y materion hyn ar hyn o bryd.

O ganlyniad, gwnaethom gytuno i ysgrifennu atoch i rannu manylion y ddeiseb, a bydd y Pwyllgor Deisebau yn cadw golwg ar y ddeiseb hon tan ar ôl i'r ymchwiliad ddod i ben.

Mae rhagor o wybodaeth am y ddeiseb, gan gynnwys y testun llawn a'r ohebiaeth yn ei chylch, ar gael ar ein gwefan yn:

<http://www.senedd.cynulliad.cymru/mgIssueHistoryHome.aspx?Id=24658>

Os oes gennych unrhyw gwestiynau, cysylltwch â thîm Clercio'r Pwyllgor yn SeneddDeisebau@cynulliad.cymru.

Yn gywir

Janet Finch-Saunders AC
Cadeirydd



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Tudalen y pecyn 97

Eitem 6.10

CYPE(5)-13-19- Papur i'w nodi 10



BHF Cymru

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T: 0300 330 3322

18 April 2019

Dear Lynne Neagle AM,

I am writing to you as chair of the Children and Young People's Committee to raise concerns about the new curriculum. There is a risk that Wales will fall further behind other countries and more lives will be lost unnecessarily across Wales if CPR and other life-saving skills are not referenced in the content that needs to be covered in the new curriculum.

BHF Cymru supports the Donaldson Review and agrees that less prescription is imperative to the success of the new curriculum. This is why we already provide free CPR training resources for every school in Wales to ensure that they can teach CPR at a time and in a way that suits them.

Along with St John's Cymru and British Red Cross Wales, we have met with the Welsh Government officials leading the development of the Health and Wellbeing Area of Learning and Experience (AoLE) on a number of occasions. However, at the last meeting, we were alarmed that the Health and Wellbeing "what matters" statements core content and progression steps did not make any reference to learning CPR or lifesaving skills. Even the "what matters" statement about improving other people's health makes no reference to gaining knowledge and experience of CPR or lifesaving skills despite the evidence for this and the obvious fit for these skills with this statement.

We are concerned about this omission because of the missed opportunity this presents for learning key skills and improving health outcomes in Wales, and without a presence in the AoLE or "what matters" statements, it is very likely that schools may feel that they don't need to teach life-saving skills. The evidence is very clear. In countries where CPR is taught universally in schools and bystander CPR and survival rates are 2-3 times higher. For example, in Denmark in 2005, a programme to teach all secondary school age children CPR was introduced and a decade later the out of hospital

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cardiac arrest rate had tripled. In Denmark and Norway, where CPR is learnt universally in schools around 1 in 4 people survive an out of hospital cardiac arrest. In Seattle, where a similar programme was introduced, the survival rate is 1 in 5. Today in Wales, and across the UK, out of hospital cardiac arrest survival rates are less than 1 in 10 because rates of bystander CPR remain stubbornly low.

In 2016/17 the Welsh Ambulance Service Trust responded to over 2,800 out of hospital cardiac arrests where resuscitation was attempted. This means that we would likely see over 200 lives a year saved in Wales in the future if we follow the lead of other countries that have included CPR as a core part of their school curriculum.

A survey carried out by YouGov in October showed that nearly a third of adults in the UK would not attempt to carry out CPR in a situation which required them too. Yet, evidence shows that nearly 1 in 6 will witness a cardiac arrest. This is a skill that many young people will need - in a class of 30 students many will go onto put these lifesaving skills into practice later in life.

In both England and Scotland this evidence has led to changes and *all* students will now leave secondary school having been trained in CPR. At the start of 2019, the UK Government announced that CPR and life-saving skills will be a part of the English school curriculum from 2021 and as of 5th April 2019, all Scottish local authorities have committed to teaching it in all their schools. Based on the available evidence, it is highly likely that in a decade's time, that England and Scotland's out of hospital cardiac arrest survival rates will significantly improve. We urge the Welsh Government to consider the implications of not making any reference to CPR and other life-saving skills within the content that needs to be covered in the Health and Wellbeing AoLE.

At present, we know through our work, that around 85% of Welsh schools have our CPR kits, but with no reason for teachers to build this into their lessons in the future, we are extremely concerned that the numbers of people leaving school equipped with life-saving skills may actually fall.

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There is also a very high level of variation between schools at present and the evidence is unequivocal that the only way to address this and improve survival rates is through including lifesaving skills within curriculum content. Schools play a vital part in equipping children with the skills they need for life. We will continue to work with schools across Wales to support young people in learning CPR and we do not want to prescribe how or when children learn these skills in schools. In some schools, peer to peer learning works really well. In other schools, there will be a member of staff with a passion and experience of teaching lifesaving skills who will want to deliver these sessions. Our 30 minute videos allow anyone to teach basic CPR in English or Welsh. If the new Welsh curriculum provides a simple reference and hook for life-saving skills then schools will be able to work with all the lifesaving charities in Wales to make sure no communities miss out and lives are saved.

Yours sincerely,

A handwritten signature in black ink that appears to read "Adam Fletcher".

Adam Fletcher
Head of BHF Cymru

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Patron: HRH The Prince Philip KG GT
Chief Executive: Simon Gillespie

Tudalen y pectyn 100

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Mae cyfyngiadau ar y ddogfen hon