



## Children in Wales Plant yng Nghymru

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

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

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

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

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

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

#### **Introduction**

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

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

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

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

### **Equal Protection for Children from Assault**

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

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

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

### **Section 1 The Purpose of the Act**

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

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

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

## **Section 2 Duty to Prepare, Publish and Review National Strategy**

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

## **Section 4 Duty to prepare local strategies**

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

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

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

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

## **Section 8 National Indicators**

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

## **Section 12 Power to issue statutory guidance**

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

## **Section 21 Interpretation**

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

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

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

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

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

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

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

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

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

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

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

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