

## B. EQUALITY IMPACT ASSESSMENT

The impact of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 (“the Children Wales Act”) on equalities was originally considered prior to the introduction of the legislation. This Equality Impact Assessment (EIA) makes a re-assessment (September 2020) following the Children Wales Act gaining Royal Assent in March 2020. This updated EIA considers any potential impacts on people with protected characteristics during the period of implementation activity up to section 1 (removal of the defence of reasonable punishment) of the Children Wales Act taking effect in March 2022.

### **1. Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.**

During the period from Royal Assent (March 2020) and commencement of section 1 (removal of the defence of reasonable punishment) of the Children Wales Act in March 2022 the Welsh Government is focusing on ensuring the legislation is implemented in a practicable and workable way. The purpose of the Children Wales Act is to prohibit the physical punishment of children in Wales by abolishing the defence of reasonable punishment in law.

The basic human right of protection from all forms of physical or mental violence is enshrined in international human rights treaties such as the United Nations Convention on the Rights of the Child (UNCRC). This places an obligation on ratifying states to ensure that children are protected from all forms of violence and other cruel and degrading treatment. The main purpose of the Children Wales Act is to help protect children’s rights in relation to the duty set out in article 19<sup>1</sup>. The UNCRC highlights “the obligation of all States parties to move quickly to prohibit and eliminate all corporal punishment and all other cruel or degrading forms of punishment of children”.<sup>2</sup>

When section 1 of the Children Wales Act comes into force in March 2022 children in Wales will be offered the same legal protection from physical punishment as adults. The Children Wales Act will prohibit the physical punishment of children by parents within Wales, including visitors to Wales.

The defence of reasonable punishment is a defence to the existing common law offences of assault and battery. On commencement the Children Wales Act will remove the defence of reasonable punishment. This does not create a new criminal offence as the defence applies only to the existing offences of common

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<sup>1</sup> Article 19 of the UNCRC requires States to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”

<sup>2</sup> United Nations Committee on the Rights of the Child (2006): Forty Second Session. General Comment No.8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. Geneva: United Nations  
<https://www.refworld.org/docid/460bc7772.html>

assault and battery. The existing penalties for the offences of common assault and battery would therefore remain unchanged<sup>3</sup>. The police already receive reports of adults physically punishing children and respond and record such incidents, in line with agreed processes and procedures.

Removing the defence will not interfere with other principles of the common law, which acknowledge that a parent can intervene physically, for example, to keep a child safe from harm, or help with day to day activities such as dressing or hygiene and cleanliness.

The Welsh Government have considered the impact of the Children Wales Act on people in protected groups and those living in low income households, and will focus on putting in place mitigating actions during the period between Royal Assent and Commencement of Section 1 of the Act. The table below sets out the potential impact on different groups and the mitigations the Welsh Government will put in place. Research suggests that physical punishment is associated with certain groups of parents (e.g. younger parents and those with poor maternal, physical and mental health). There is also some evidence that physical punishment is associated with certain groups of children (e.g. younger children, boys).

The Children Wales Act will provide legal protection from physical punishment to all children in Wales regardless of any protected or other characteristic. The defence of reasonable punishment, which can apply to the actions of parents, carers, guardians or those acting in loco parentis in any unregulated settings including places of learning, worship, play, leisure, in the home or any other location, will no longer be available.

Those parents who do continue to physically punish their children after Section 1 of the Children Wales Act comes into force may face criminal charges. However this potential impact cannot be used to defend the use of physical punishment, which conflicts with a child's human dignity and right to protection from all forms of violence. When looking at assault between two adults we do not use the potential for one adult to face criminal charges as a justification to legalise common assault. The UN Committee on the Rights of the Child has rejected justifications for physical punishment based on the best interests of the child, family authority or religious belief<sup>4</sup>. We take the view that any potential

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<sup>3</sup> The Criminal Justice Act 1988, Section 39 provides that 'Common assault and battery shall be summary offences and a person guilty of either of them shall be liable to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding six months, or to both.' Where there is an allegation of a parent or person acting in loco parentis physically punishing a child, the police will need to consider the evidential test, the public interest test and the best interests of the child before deciding what action to take. If there is sufficient evidence for the police to charge, they have a range of options they can consider including an out of court disposal (e.g. caution, community resolution) or prosecution (CPS will take this forward). If an individual was prosecuted the sentence applied would depend on the circumstances of the case, those of the individual and whether the person has any previous criminal convictions.

<sup>4</sup> Committee on the Rights of the Child, General Comment No.8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (2006) CRC/C/GC/8 <https://www.refworld.org/docid/460bc772.html>.

negative impact on parents is outweighed by the enhanced protection of children with different protected characteristics.

Although research has identified certain characteristics of parents or children as a risk factor in the use of physical punishment, a parent's decision to use physical punishment is complex. It may depend on a number of factors including personal choice and experience; family structure; the individual child and adult; stress and society/cultural norms. It is also important to recognise the limitations of some of the research around parental physical punishment which is a sensitive and complex area. Many studies rely on retrospective self-reporting from parents making it harder to accurately measure the use of physical punishment. Also most studies have not taken place in Wales and the findings may not necessarily transfer to the Welsh context.

The Children Wales Act places a duty on the Welsh Government to conduct a post implementation review and publish an interim report 3 years and a final report 5 years after Section 1 of the Children Wales Act comes into force. As part of the implementation activity for the Act the following monitoring and evaluation activities are being put in place:

- *Impact on public services:* Work has commenced, through the Data Collection and Monitoring Task and Finish Group, to develop methods for collecting data across organisations to monitor the impacts of the legislation on public services and other organisations.
- *Public attitudes and awareness:* The Welsh Government will use representative surveys to track public awareness of the change in legislation and changes in attitude towards physical punishment of children. These surveys will enable the monitoring of the trends compared to the baseline survey 2018. It is intended this will be annual and include data from a range of population groups.
- *Stakeholder views and experiences:* It will also be important to understand how the change in law is being experienced by a range of stakeholders such as parents and practitioners through qualitative research. This will help support and inform implementation work as well as providing important context for interpreting the monitoring figures.

It is anticipated that the post implementation review reports will bring together the data gathered through the three strands above as well as considering the broader implications of the change in law. This should help us gauge the impact of the change in the law on individuals and the public sector.

Another provision in the Children Wales Act is that Welsh Ministers have a legal duty to promote public awareness of the law change before it comes into force in March 2022. The public awareness campaign for the Act was officially paused whilst all Welsh Government communications focused on the response to the Covid-19 crisis. The awareness raising campaign will include a targeted multi-media campaign incorporating engagement with stakeholders and specific audiences as well as a range of advertising and PR. Awareness raising will continue for a period after the Act commences in March 2022. The aim is to ensure the general public in Wales will be aware of the change in the law. The Welsh Government will work with specific groups, communities and

organisations to inform them of the change in the law and consider whether extra support, advice and information may be needed.

Changing the law, removes ambiguities and confusion around what physical punishment is considered reasonable. Removing the defence will provide a clearer and more consistent basis for professionals providing information, advice and support to parents to adopt positive forms of discipline – something professionals have asked for.

This Equality Impact Assessment explores the positive impacts and how potential negative impacts could be mitigated including ensuring parents in protected groups are aware of the legislation and are signposted to advice, support and information.

The Children Wales Act is intended to help change and modify behaviour with regard to the physical punishment of children in Wales in favour of using positive non-physical ways of disciplining children. The Children Wales Act sets out in law that parents and those acting in loco parentis who use physical punishment towards children will no longer be able to rely on the defence of reasonable punishment.

In this Equality Impact Assessment, the following terms have the meaning described below:

**Physical punishment:** any battery of a child / children carried out as a punishment, and referred to in the Children Wales Act I as “corporal punishment”.

**Parent:** any parent and any other adult who is (at the relevant time) acting in loco parentis, caring for a child / children in a parental capacity.

## Record of Impacts by protected characteristic:

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
<p><b>Age</b> (think about different age groups)</p>	<p>The positive impact of the Children Wales Act will be that all children, irrespective of their age or the age of their parent will have protection under the law from being physically punished.</p> <p><b><u>Age of child</u></b></p> <p>Younger children are more likely to be physically punished.</p> <p>The intended <b>positive impact</b> of the Children Wales Act is that younger children will be less likely to be physically punished and will therefore have their rights respected and be protected from the negative outcomes associated with physical punishment.</p> <p>The possible <b>negative impact</b> is that those parents of young children who do continue to physically punish after the Children Wales Act commences may face criminal charges. As is the case now having a criminal record may impact on the parent's employment and increase stress on the household. This may therefore have negative consequences for the children.</p> <p><b><u>Age of parent</u></b></p> <p>The evidence around the age of parents as a factor</p>	<p>When section 1 of the Children Wales Act commences in March 2022 it will abolish the defence of reasonable punishment in relation to corporal punishment of any child of any age taking place in Wales.</p> <p><b><u>Age of child</u></b></p> <p>Research suggests that children aged between two to nine experience physical punishment more frequently than children of other ages. The use of physical punishment peaks for children between the ages of three and five (Smith et al., 2005<sup>iii</sup> Halpenny et al 2010<sup>iv</sup> Heilmann et al 2015<sup>v</sup>; Robertson, 2017<sup>vi</sup>)</p> <p><b><u>Age of parent</u></b></p> <p>Research suggests that physical punishment is used more frequently by younger parents aged under 35 (Halpenny et al. 2010<sup>vii</sup>; Heilmann et al 2015<sup>viii</sup>). Young parents may face additional challenges such as being a lone parent, living in poor housing and managing on a low income.</p> <p>However a survey conducted by the UK Government in 2007<sup>ix</sup> suggested there is a correlation between parents' opinions on</p>	<p>The Welsh Government will raise awareness about the change in the law and how it might affect adults and children. This will take place prior to and after commencement of the Children Wales Act.</p> <p>The Welsh Government already provides information, advice and support for parents that include alternatives to physical punishment which are considered more conducive to improving children's health, wellbeing and long term outcomes. As part of awareness raising existing parenting support will be promoted to parents through the 'Parenting. Give it' Time campaign and other initiatives. During the implementation phase prior to commencement of the Children Wales Act the Welsh Government is working with key individuals through the Parenting Expert Action Group to enhance existing parenting support provision for parents. This includes expansion of the Parenting Give it Time campaign so that it covers the age range 0-18, rather than 0-7 as is currently the case.</p> <p>In addition parents in Wales have access to a helpline run by Family Lives which provides emotional support, information, advice and guidance on any</p>

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	<p>in the use of physical punishment appears to be rather contradictory.</p> <p>A <b>potential positive impact</b> of the Children Wales Act is that parents may be less likely to physically punish their child. Research suggests that parents are not comfortable with the idea of physical punishment and feel guilty when they use it. Parents would therefore benefit from not using physical punishment. In addition it may prompt parents to take up the parenting support offered to them which may improve their confidence, well-being and satisfaction in their parenting role.</p> <p>There appears to be a decline in the use of, and support for physical punishment. The Welsh Government commissioned survey published in 2018<sup>i</sup> found a significant reduction in the number of parents of young children in Wales who said they smack their children compared with parents asked in 2015. The growth in the availability of parenting support (e.g. through Flying Start, Families First and universal health visiting), information (e.g. through the internet and increasing availability of books and TV programmes) has increased parents' awareness of different methods of positive</p>	<p>smacking and their age (with younger parents tending to hold more negative opinions about physical punishment than older parents).</p> <p>The <b>intergenerational transmission of physical punishment</b> use is not inevitable; however, adults' support for physical punishment is significantly related to whether adults believe their own parents were supportive of the practice and whether they themselves were physically punished as children.<sup>x xi xii</sup></p> <p>Parents may also view their parents as a source of advice on managing their children's behaviour. In a survey commissioned by the Welsh Government (2018)<sup>xiii</sup> 14% of parents of young children said they sought advice from a friend or relative. The internet was reported as the most popular source of advice and information (52%) of those who had ever looked for information and advice. This was followed by health professional (35%) and school (20%).</p> <p>Research in New Zealand (Stokes et al 2005<sup>xiv</sup>), commissioned to support positive parenting initiatives found that parents often have "a lack of consciousness" in parenting, tending to behave instinctively, often based on their own</p>	<p>aspect of parenting and family life. The Welsh Government has provided funding to Family Lives, for a trial period, to employ a Welsh speaking call-taker until the end of March 2021. The additional support is being trialled for a limited period to allow for an evaluation of effectiveness</p> <p>Where there is an allegation of a parent or person acting in loco parentis physically punishing a child, the police will need to consider the evidential test, the public interest test and the best interests of the child before deciding what action to take. Should the police decide to charge, they have a range of options they can consider including an out of court disposal (e.g. caution, community resolution) or prosecution (CPS will take this forward). We are exploring with the police the possibility of their using community resolutions and diversion schemes as an alternative to prosecution. Further discussions are needed to clarify and agree the options available. For the purposes of criminal records disclosure, a community resolution constitutes non conviction data which is not generally disclosed. For more information see Annex 6 of the Explanatory Memorandum.</p> <p>The research in New Zealand (see left) suggests</p>

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	<p>discipline and their subsequent use.</p> <p>The <b>potential negative impact</b> of the Children Wales Act is that parents of any age who smack their children will be at risk of being charged and/or prosecuted if they continue to physically punish their child if the law changes. As is the case now having a criminal record might impact on employment, study or travel.</p> <p><b><u>Grandparents</u></b></p> <p>Grandparents often provide part time or fulltime childcare, or act as babysitters. Research suggests that grandparents provide around 40% of childcare for parents who are either at work or studying.<sup>ii</sup> There is no specific evidence around the use of physical punishment by grandparents however a <b>positive impact</b> of the Children Wales Act is that children looked after by their grandparents will be protected by law from physical punishment.</p> <p>Grandparents may also be a source of advice for some parents. A <b>positive impact</b> of the legislation will be to further encourage parents to use positive approaches to discipline their child rather than physical punishment. In addition grandparents will be more</p>	<p>experiences as a child. They may not have reflected on their parenting style. The researchers identified five stages to becoming conscious about parenting practice: unaware; becoming aware; ready to change; taking action and maintaining change. These are similar to the Stages of Change Model (Howarth, 2013<sup>xv</sup>).</p> <p>This research suggests parents can and do change their view on, and use of, physical punishment. It also suggests that this change in attitudes and behaviour can be facilitated by providing parents with information and support. A survey commissioned by the Welsh Government (2014<sup>xvi</sup>) found the most frequent reasons given for changing their view on physical punishment were:</p> <ul style="list-style-type: none"> <li>o 'Changing times\ changed with the times'</li> <li>o 'Better or other ways to manage behaviour'</li> <li>o 'Now have children\ am a parent'</li> </ul> <p>This suggests that the intergenerational transmission of physical punishment is not inevitable. Parents do seek advice on parenting from other sources and would be receptive to messages about positive parenting. The Children Wales Act will</p>	<p>that parents may be open to change if they are informed about the negative impact of physical punishment or are made aware it is no longer socially acceptable. They may also become more open to change through talking to professionals. The Children Wales Act alongside parenting support and awareness raising will contribute to reducing and eradicating intergenerational patterns of physical punishment use.</p> <p>Grandparents in a kinship care role will be able to access parenting support through Flying Start and Families First in the same way other parents access it, if they are eligible (e.g. live in a Flying Start area). We will work with specific organisations which provide advice and support to kinship carers and grandparents more generally.</p> <p>Grandparents will be included as a specific group of people to raise awareness about the change in the law.</p> <p>Those kinship carers who are an official foster carer for their grandchild should also receive support from the Local Authority.</p> <p>If parents are charged they would have the right to free legal advice if they're</p>

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	<p>likely to encourage their children to parent in a way which is consistent with the law thus reducing the use of physical punishment. The Children Wales Act should help with reducing the intergenerational transmission of physical punishment.</p> <p><b><u>Kinship Care</u></b></p> <p>Grandparents or other family members may also provide full time care as a kinship carer. Most children are in kinship care because their parents aren't able to care for them. These arrangements may last anything from a few days through to a long term or permanent arrangement. Kinship care includes informal arrangements within the family, or may be more formal arrangements such as Special Guardianship Orders or (where the child is looked after) kinship foster care.</p> <p>Kinship foster carers are already prohibited from using any form of corporal punishment under the fostering regulations.</p> <p>The <b>possible negative impact</b> of the Children Wales Act is that informal kinship carers or Special Guardians who physically punish their grandchildren after the legislation comes into force may potentially face criminal charges. In addition if the kinship carer</p>	<p>help promote culture change in reducing the acceptability of physical punishment.</p> <p>In a survey of parents of young children commissioned by the Welsh Government in 2017<sup>xvii</sup> only 5% reported they are comfortable with the idea of physical punishment and will do it when necessary. Research in Northern Ireland<sup>xviii</sup> found that 57% of parents who had used physical discipline in the past year also thought that it frequently or always led to parental guilt or regret.</p> <p>Research suggests parenting support (delivered by appropriately trained practitioners) can increase parents' confidence, satisfaction and improve well-being (Barrett, 2003<sup>xix</sup>, Bywater et al, 2009<sup>xx</sup>, Barrett, 2010<sup>xxi</sup>).</p> <p><b><u>Kinship care</u></b></p> <p>The 2011 census showed that Wales had 9,560 children living in kinship care - around, 60% of whom were living in households headed by a grandparent. The highest prevalence of kinship care was seen within the black ethnic group. The highest prevalence of kinship care was in the poorest 20% of areas in Wales and in households deprived on all four dimensions of</p>	<p>questioned at a police station.</p> <p>An individual automatically gets legal aid for legal representation in court if they're under 16 (or under 18 and in full-time education) or on certain benefits.</p> <p>Individuals on a low income, or on certain benefits and who don't have much in savings, might be able to get money off their court fee. Please see UK Government website <a href="https://www.gov.uk/legal-aid">https://www.gov.uk/legal-aid</a></p>

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	is prosecuted and fined this may have an impact on their resources. We do not anticipate many such cases <sup>5</sup> .	employment; education; health and disability and housing in Wales. Children in kinship care in Wales were twice as likely to have a long term health problem or disability that limited their day-to-day activities <sup>xxii</sup> .	
<b>Disability</b> (think about different types of disability)	<p><b><u>Disabled children</u></b></p> <p>The intended <b>positive impact</b> on all disabled children is that they will be protected by law from all forms of physical punishment.</p> <p>A <b>potential negative impact</b> of the Children Wales Act is the perception from some professionals and parents that they will no longer be able to restrain children, where necessary, to keep them safe or to prevent harm to others.</p> <p><b><u>Disabled Parents</u></b></p> <p>Parents with learning difficulties may need support to fulfil their role and adapt to the change in the legislation.</p> <p>The <b>possible negative impact</b> of the Children Wales Act is that those parents of disabled children or disabled parents who do continue to physically</p>	<p>When Section 1 of the Children Wales Act commences it will abolish the defence of reasonable punishment in relation to corporal punishment of any child taking place in Wales.</p> <p><b><u>Disabled children</u></b></p> <p>Research suggests that having children with poor health or developmental delay, disability, or behavioural problems may be factors which increase the risk of using physical punishment (Bunting, 2008<sup>xxiii</sup>). Prematurity, ill health, physical and learning disabilities have all been shown to affect parental behaviour and choice of discipline (Henricson, and Grey 2001<sup>xxiv</sup>). According to the Family Fund (Third Sector organisation) behaviour management is one of the top concerns for families raising disabled children.</p> <p>Children with a disability may require on-going</p>	<p>As outlined above we will be raising awareness of the Children Wales Act and will continue to provide parenting support. Some parenting programmes delivered through Flying Start and Families First have been tailored to the specific needs of parents with a disabled child. Some generic parenting programmes may also be suitable, if delivered by staff with a knowledge and understanding of the child's additional needs.</p> <p>During this implementation phase we will work with Third Sector organisations to understand the particular needs of disabled parents and parents of disabled children and ensure that families are aware of the change in the law and where they can access support. We will also make it clear to all parents, including those with disabled children that they will continue to be able to</p>

<sup>5</sup> We are unable to predict the impact of parent's involvement with the justice system with absolute certainty because there is no precedent in the UK for removing the defence and because of current reporting and recording practices. This assessment has been made using the best data, currently available, including using the experience in New Zealand as a proxy. Please see the Justice Impact Assessment for further information.

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	<p>punish after the Children Wales Act commences may face criminal charges. As is the case now, having a criminal record may impact on the parent’s employment and increase stress on the household. This may therefore have negative consequences for the children.</p> <p>If charged these parents may have less resources to pay for legal advice. In addition if the parent is prosecuted and fined this may have an impact on their resources, particularly if they are the primary or only carer for the child. We anticipate that very few parents might be prosecuted so a very small number of parents could be affected. <sup>6</sup></p>	<p>physical care while others may display challenging behaviour (Utting, 2006<sup>xxv</sup>; Contact a Family, 2013a<sup>xxvi</sup>; 2013b<sup>xxvii</sup>). Challenging behaviour can also be a sign that something is wrong, like pain or discomfort that the child cannot express in another way.</p> <p>Disabled people and families with disabled children are more likely to be living in low income households (Welsh Government 2015)<sup>xxviii</sup>.</p> <p><b><u>Disabled Parents</u></b></p> <p>Research suggests there is an association between physical punishment and poor maternal, physical and mental health. (Heilmann et al 2015<sup>xxix</sup>). Mental health problems do not necessarily affect the parent-child relationship but they may be associated with a reduced capacity to parent consistently and positively (Utting, 2006<sup>xxx</sup>). Research in Wales (Learning Disability Wales, 2008)<sup>xxxi</sup> found that parents with learning difficulties are up to fifty times more likely to have their children</p>	<p>intervene physically, for example, to keep their child safe from harm, or to help with activities such as dressing.</p> <p>We will ensure information is accessible, in appropriate formats, and communicated clearly to meet the needs of disabled parents with additional needs.</p> <p>During this implementation phase prior to commencement of the Children Wales Act the Welsh Government is working with key individuals through the Parenting Expert Action group to enhance existing parenting support provision for parents. This includes expansion of the Parenting Give it Time campaign so that it covers the age range 0-18, rather than 0-7 as is currently the case.</p> <p>As highlighted above those on a low income may be entitled to legal aid if they are charged and money off their court fee if they are prosecuted.</p> <p>The Welsh Government’s, ‘Framework for Restrictive Physical Intervention Policy and Practice’ was developed so that guidance on restrictive physical intervention<sup>7</sup> for</p>

<sup>6</sup> We are unable to predict the impact of parent’s involvement with the justice system with absolute certainty because there is no precedent in the UK for removing the defence and because of current reporting and recording practices. This assessment has been made using the best data, currently available, including using the experience in New Zealand as a proxy. Please see the Justice Impact Assessment for further information.

<sup>7</sup> “Restrictive physical interventions” is defined by the Welsh Government as: “direct physical contact between persons where reasonable force is positively applied against resistance,

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		<p>removed than other parents, which is usually due to concerns about the risk of harm due to neglect rather than abuse. Lack of support services are a key factor in influencing court decisions. Parents with learning difficulties can and do learn child care, home safety, child health and how to interact with their children - home based programmes being more successful.</p>	<p>professionals who work with children and young people, in health, education and social care settings should share a common framework of principles and expectations. The Framework seeks to support practice in line with fundamental human and legal rights. Work is being undertaken across health, social care and education sectors to reduce the use of restrictive practice when dealing with challenging behaviour and promote the use of evidence based interventions such as “Positive Behavioural Support”. Within the principles of this framework the Children Wales Act would not affect the ability of professionals to intervene physically, to keep vulnerable children and young people safe or to prevent harm to others.</p>
<p><b>Gender Reassignment</b> (the act of transitioning and Transgender people)</p>	<p>Children of whatever gender, transgender or those transitioning would have the same protection from physical punishment if the law is enacted.</p> <p>The <b>possible negative</b> impact of the Children Wales Act is that those parents who do continue to physically punish after the Children Wales Act commences may face criminal charges. As is the</p>	<p>There does not appear to be any evidence that children undergoing gender reassignment are any more likely to be physically punished than other children.</p> <p>No evidence was readily available that parents who are, or who have, transitioned are any more likely to use physical</p>	<p>As outlined above we will raise awareness of the change in the law and provide information, support and advice for parents on positive parenting approaches.</p>

either to restrict movement or mobility or to disengage from harmful behaviour displayed by an individual.”

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	<p>case now, having a criminal record may impact on the parent's employment and increase stress on the household. This may therefore have negative consequences for the children.</p>	<p>punishment than any other parent.</p>	
<p><b>Pregnancy and maternity</b></p>	<p>A <b>potential positive impact</b> of the Children Wales Act, and associated awareness raising, is that parents may reflect more on how they would like to discipline their unborn child. Those providing support to families expecting a baby will be able to provide clear and unambiguous advice to prospective parents that physical punishment is not acceptable in Wales. Parents will be more likely to adopt positive parenting behaviours from the outset which may have a positive impact on the parent-child relationship.</p>	<p>There is evidence that what happens during the first 1,000 days of a child's life<sup>8</sup> has a significant impact on their outcomes as they grow up (Public health Wales<sup>xxxii</sup>). This early period of a child's life is therefore important in establishing positive parenting behaviours.</p> <p>The quality of the parent-child relationship is associated with the development of secure attachment and improved outcomes in children (O'Connor and Scott, 2007<sup>xxxiii</sup>; Moullin et al., 2014<sup>xxxiv</sup>). The basis of this important relationship can be fostered and supported during the antenatal and post-natal period.</p> <p>Research suggests that physical punishment is associated with adverse short and long-term outcomes, including poorer parent-child relationships and insecure attachment (Smith et al 2005<sup>xxxv</sup>; Heilmann et al, 2015<sup>xxxvi</sup>)</p>	<p>A range of provision for pregnant and new parents will continue to be provided. These interventions, such as through the Healthy Child Wales programme and Flying Start, aim to enhance parents' sensitivity and responsiveness to their baby's cues which may improve the quality of the parent-child relationship; promote secure attachment and may help reduce the circumstances where parents use physical discipline in the future.</p> <p>This can include antenatal groups for mothers and fathers; supporting pregnant women to recognise the importance of early relationships and parenting style to the health and well-being of their baby.</p> <p>During this implementation phase prior to commencement of the Children Wales Act the Welsh Government is working with key individuals through the Parenting Expert Action group to enhance existing parenting</p>

<sup>8</sup> This period covers the time through pregnancy, birth, and up until a child's second birthday

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		<p>The National Evaluation of Flying Start (Welsh Government 2011<sup>xxxvii</sup>) suggested targeting first time parents. Parents who already have children tend to develop fixed patterns of behaviour and they may find it more difficult to change their parenting style. By encouraging positive parenting behaviours in first time parents, there is the potential that subsequent children in the family will also benefit from this positive parenting approach.</p>	<p>support provision for parents. This includes expansion of the Parenting Give it Time campaign so that it covers the age range 0-18, rather than 0-7 as is currently the case.</p> <p>Awareness raising will ensure that new parents are aware that when the Children Wales Act comes into force it will no longer be legal to use physical punishment to discipline their child.</p>
<p><b>Race</b> (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum seekers and Refugees)</p>	<p>The <b>positive impact</b> of the legislation is that children in all communities irrespective of ethnic or cultural background would have the same protection from physical punishment when the Children Wales Act comes into force.</p> <p>Some parents may face language or literacy barriers which make it more difficult for them to find out about the change in the law and advice on positive parenting approaches.</p> <p>It is possible that there could be a <b>negative impact</b> on parents who continue to use physical punishment. If charged these parents may have less resources to pay for legal advice. In addition if the parent is prosecuted and fined this may have an</p>	<p>There is some limited evidence that children from some ethnic groups may experience physical punishment more frequently due to the parents' ethnic or cultural origin. For example a recent study<sup>xxxviii</sup> by the Afruca organisation exploring attitudes towards physical punishment in African Communities looked into the increase in numbers of children from African parentage that were placed on the child protection register under the category of physical abuse (this is a much higher threshold than reasonable punishment). The report found that while most African parents love their children and want the best outcomes for them the use of physical punishment to instil discipline in children is regarded as both a</p>	<p>As part of the awareness raising campaign, the Welsh Government will work closely with a range of communities in Wales to understand their particular needs. For example a focus group was held with parents and family members with caring responsibilities from different BAME communities across Wales to find out their views on advertising and communications material. We have also engaged a specialist agency to communicate directly with specific communities and groups across Wales, including the groups referenced opposite, and advise on how we can most effectively provide information and advice for them on the law change.</p>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	<p>impact on their resources. However we anticipate that very few parents will be prosecuted so a very small number of parents would be affected<sup>9</sup>.</p>	<p>cultural and religious child-rearing practice to build moral values, strong character and respect for others. The report found that practices which may be seen as 'normal' by many Africans could be regarded as posing significant harm to children, in the context of UK child protection laws.</p> <p>On the whole the research into physical abuse and punishment in minority and ethnic groups is inconclusive and often contradictory. Ethnicity can be confounded with other variables (such as socio-economic status) which make it difficult to establish the influence of ethnic group status. (Smith et al 2005<sup>xxxix</sup>; Gershoff, 2010<sup>xi</sup>)</p> <p>Minority ethnic parents face a number of different barriers to accessing services including discrimination; language and cultural barriers and a lack of awareness of services and how to access them. This is especially true of migrant, refugee and asylum seeking families whose problems may be compounded by the traumatic circumstances in which they have left their home country (Utting, 2006<sup>xli</sup>).</p>	<p><b>The 'Parenting. Give it Time' parenting</b> campaign has a range of information on positive parenting in 10 minority community languages to support parents to adopt alternatives to physical punishment. Information is also available as animated films which may be helpful for those with limited literacy.</p> <p>The Welsh Government will use existing networks and trusted agencies who work with parents from minority ethnic groups to raise awareness of the change in the law.</p> <p>As highlighted above those on a low income may be entitled to legal aid if they are charged and money off their court fee if they are prosecuted.</p>

<sup>9</sup> We are unable to predict the impact of parent's involvement with the justice system with absolute certainty because there is no precedent in the UK for removing the defence and because of current reporting and recording practices. This assessment has been made using the best data, currently available, including using the experience in New Zealand as a proxy. Please see the Justice Impact Assessment for further information.

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>Certain ethnic minority groups are more likely to be living in low income households (Welsh Government 2015)<sup>xlii</sup>. Only 4.7% of the population of Wales are from a non-white background.<sup>xliii</sup></p> <p>A review of service provision for Gypsies and Travellers by the Equality of Opportunity Committee (National Assembly for Wales, 2003<sup>xliiv</sup>) found that families may be reluctant to use services for fear of stigma and prejudice; have a lack of trust in service providers and may also have limited literacy.</p>	
<p><b>Religion, belief and non-belief</b></p>	<p>A <b>positive impact</b> of the legislation will be that all children, irrespective of religious background, belief or non-belief will have legal protection from physical punishment.</p> <p>When it commences the Children Wales Act will remove the legal loophole which currently exists which allows adults acting in loco parentis in what are termed 'non-educational settings', to use the defence of reasonable punishment.</p> <p>A <b>positive impact</b> of the Children Wales Act will be that children attending settings to learn, worship or do other activities will be protected from any form of physical punishment.</p>	<p>In 2010 Sir Roger Singleton's report<sup>xliv</sup> into improving the consistency and protection of children regarding physical punishment recommended that the ban on corporal punishment in mainstream schools and educational settings should be extended to all settings where children learn, play, worship and are cared for.</p> <p>Parents' support for physical punishment varies, to some degree, by religious affiliation. Some religious leaders make connections between firm discipline and a child's spiritual well-being. Parents may be encouraged to use physical punishment.</p>	<p>As outlined above we will be raising awareness of the legislation and will continue to provide parenting support.</p> <p>The Welsh Government will use existing networks and trusted agencies who work with different faith and belief groups to raise awareness of the change in the law, including those who run non-educational settings. We have also engaged a specialist agency to engage directly with faith groups and advise on how we can most effectively provide information and advice for them about the law change.</p> <p>As highlighted above those on a low income may be entitled to legal aid if they are charged and money off</p>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	<p>A <b>potential negative impact</b> of the Children Wales Act would be that the proposal may be viewed by certain religious groups as state interference in the way in which their religious doctrines and beliefs determine how they raise their children.</p> <p>There may also be particular religious denominations which specifically sanction physical punishment and see it as having scriptural authority and an integral part of child rearing. As these parents may view this as a point of conscience they may not adjust their behaviour if the law changes.</p> <p>The <b>possible negative impact</b> of the Children Wales Act is that those parents who do continue to physically punish after the legislation is enacted may face criminal charges. As is the case now having a criminal record may impact on the parent's employment and also increase stress on the household. This may therefore have negative consequences for the children.</p>	<p>However it is not the majority faith view, for example The Churches' Network for non-violence was formed to broaden religious support for law reform to end corporal punishment of children.</p>	<p>their court fee if they are prosecuted.</p>
<p><b>Sex / Gender</b></p>	<p>All children in Wales, regardless of gender, will have legal protection from physical punishment.</p> <p><b><u>Gender of parent</u></b></p>	<p><b><u>Gender of parent</u></b></p> <p>Some research has explored whether mothers and fathers (or male and female caregivers) differ in</p>	<p>As outlined above we will be raising awareness of the legislation and will continue to provide parenting support</p>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	<p>The change in the law may have slightly more of an impact on females than males. As lone parent families, are predominantly female, and at greater risk of living on low income, if charged these parents may have less resources to pay for legal advice. In addition if the parent is prosecuted and fined this may have an impact on their resources. However we anticipate that very few parents will be prosecuted so a very small number of parents would be affected<sup>10</sup>.</p> <p><b><u>Gender of child</u></b></p> <p>Physical punishment may have different negative impacts for boys and girls.</p> <p>There is evidence to suggest that boys are more likely to experience physical punishment, therefore the Children Wales Act could potentially reduce the inequality these children may currently experience.</p>	<p>their use of physical punishment. While evidence appears to be somewhat contradictory it does suggest mothers may use more minor and fathers more severe forms of punishment. It also suggests that while mothers were more likely to use physical punishment with younger children, fathers were more likely to physically punish their children when they were older. (Smith et al 2005<sup>xlvi</sup>; Heilmann et al, 2015)<sup>xlvii</sup>. However some of these differences may occur because traditionally mothers tended to have a greater caretaking role and therefore, compared to fathers, they spend more time with their children, especially when young.</p> <p><b><u>Gender of child</u></b></p> <p>The NSPCC prevalence study<sup>xlviii</sup> research found that 57 % of young adults had experienced physical discipline from their mother and 42 % had experienced physical discipline from their father during childhood.</p> <p>There is evidence that boys are physically punished more often and/or more</p>	<p>to all parents regardless of gender.</p> <p>As highlighted above those on a low income may be entitled to legal aid if they are charged and money off their court fee if they are prosecuted.</p>

<sup>10</sup> We are unable to predict the impact of parent’s involvement with the justice system with absolute certainty because there is no precedent in the UK for removing the defence and because of current reporting and recording practices. This assessment has been made using the best data, currently available, including using the experience in New Zealand as a proxy. Please see the Justice Impact Assessment for further information.

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>severely than girls (Smith et al 2005<sup>xlix</sup>).</p> <p>Some studies have suggested that physical punishment was more detrimental for boys than girls however other studies examining the role of gender did not find this to be the case (Heilmann et al 2015<sup>l</sup>)</p> <p>Lone parents (who are predominantly women) are more likely to be living in low income households (Welsh Government 2015)<sup>li</sup>.</p>	
<p><b>Sexual orientation</b> (Lesbian, Gay and Bisexual)</p>	<p>No evidence could be readily found suggesting that children who identify as LGB are more at risk of physical punishment.</p> <p>Children of whatever sexual orientation would have the same protection from physical punishment when the Children Wales Act commences.</p>	<p>There is very little evidence around the use of physical punishment by LGBT parents. However one meta-analysis of research on children raised by Gay or Lesbian parents found that neither control nor warmth varied between gay or lesbian parents and heterosexual parents, even after accounting for publication bias<sup>lii</sup>.</p> <p>No evidence could be found that children who are LGBT are more at risk of being physically punished.</p>	<p>As highlighted above parents will have access to information about the change in the law and parenting support. We will work with organisations representing LGBT people to raise awareness of the change in the law.</p>
<p><b>Marriage and civil partnership</b></p>	<p>A <b>positive impact</b> is that all children in Wales, regardless of whether their parents are married, single, in a civil partnership, or another arrangement will have legal protection from physical punishment.</p>	<p>Research suggests that single (lone) parenthood is a risk factor for the use of physical punishment (Heilmann, 2015<sup>liii</sup>). The relationship between household type and physical punishment use is, however, inconsistent with several studies finding no</p>	<p>As highlighted above we will raise awareness of the law and continue to provide information, advice and support to promote positive parenting.</p> <p>We will continue to signpost parents to relationship support, including to the</p>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	<p>Single parenthood and marital conflict have been identified as risk factors in the use of physical punishment.</p> <p>The <b>possible negative impact</b> of the Children Wales Act is that those parents who do continue to physically punish after the legislation comes into force may face criminal charges. As is the case now having a criminal record may impact on the parent's employment and also increase stress on the household. This may therefore have negative consequences for the children.</p> <p>Lone parents, parents where there is inter-parental relationship conflict and single parents are at greater risk of experiencing poverty.</p> <p>A <b>potential negative impact</b> is that if charged these parents may have fewer resources to pay for legal advice. In addition if the parent is prosecuted and fined this may have an impact on their resources.</p> <p>However we anticipate that very few parents will be prosecuted so a very small number of parents would be affected<sup>11</sup>.</p>	<p>difference in prevalence between mothers living with a partner and parenting alone. (Smith et al 2005<sup>iv</sup>) Another factor is that many studies focus on lone parent households headed by a mother rather than a father, so there may be a confounding effect of gender (as described above). Raising a child alone may at times increase stress and lone parents may have less time and energy to employ strategies that involve child-orientated practices such as reasoning, persuasion, and modelling. (Smith et al 2005<sup>iv</sup>).</p> <p>Marital conflict is another risk factor which influences a parent's use of physical punishment. Marital conflict may lead to anger and aggression being transferred from the parent to the child in the form of physical punishment. Domestic abuse has been found to be a significant risk factor for all forms of violence against children, including physical punishment (Smith et al 2005<sup>vi</sup>).</p> <p>DWP analysis shows that 28% of all children living in workless couple-parent families live with parents who report having conflict in</p>	<p>Welsh Government's free on-line tool 'Parenting Together – Supporting Children Through Separation'.</p> <p>We will also take the results of a recent report commissioned by Welsh Government to consider how to support families who are separated/ing and who are outside the court system.</p> <p>As highlighted above those on a low income may be entitled to legal aid if they are charged and money off their court fee if they are prosecuted.</p>

<sup>11</sup> We are unable to predict the impact of parent's involvement with the justice system with absolute certainty because there is no precedent in the UK for removing the defence and because of current reporting and recording practices. This assessment has been made using

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>their relationship. Parents experiencing relationship distress are more likely to separate – and children whose parents have recently separated are eight times more likely to live in a workless family than those whose parents have stayed together<sup>lvii</sup>.</p> <p>Lone parents (who are predominantly women) are more likely to be living in low income households (Welsh Government 2015)<sup>lviii</sup>.</p>	
<b>Children and young people up to age 18</b>	See comments under 'Age' above and cross reference with CRIA		
<b>Low-income households</b>	<p>The <b>positive impact</b> of the Children Wales Act is that children irrespective of their parents' income will have protection under the law from physical punishment.</p> <p>There may potentially be a <b>negative</b> impact specific to this protected characteristic or group in relation to parents. Low income has been identified as a risk factor in the use of physical punishment. If charged, parents on a low income may have fewer resources to pay for legal advice. In addition if the parent is prosecuted and fined this may have a significant impact on their resources.</p>	Socio-economic status has been identified as a risk factor for the use of physical punishment (Smith et al 2005 <sup>lix</sup> ; Heilmann 2015 <sup>lx</sup> ). Much of the research in this area has been conducted in other countries so does not necessarily translate to parents in Wales.	<p>During this implementation phase prior to commencement of the Children Wales Act the Welsh Government is working with key individuals through the Parenting Expert Action group to enhance existing parenting support provision for parents. This includes expansion of the Parenting Give it Time campaign so that it covers the age range 0-18, rather than 0-7 as is currently the case.</p> <p>Some information and advice may be more accessible to those on low income through the Welsh Government's family</p>

the best data, currently available, including using the experience in New Zealand as a proxy. Please see the Justice Impact Assessment for further information.

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	<p>However we anticipate that very few parents will be prosecuted so a very small number of parents would be affected<sup>12</sup>.</p>		<p>support programmes Flying Start and Families First. This should support them to use alternative methods to discipline children and avoid the risk of them being charged or prosecuted.</p> <p>As highlighted above those on a low income may be entitled to legal aid if they are charged and money off their court fee if they are prosecuted.</p>

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<sup>12</sup> We are unable to predict the impact of parent’s involvement with the justice system with absolute certainty because there is no precedent in the UK for removing the defence and because of current reporting and recording practices. This assessment has been made using the best data, currently available, including using the experience in New Zealand as a proxy. Please see the Justice Impact Assessment for further information.

## Human Rights and UN Conventions

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
<p><b>UNCRC Article 18</b> that the best interests of the child will be parents' basic concern Includes the obligation to protect children from all forms of violence.</p> <p><b>UNCRC Article 19</b> which requires that 'State Parties shall take all appropriate legislative, social and educational measures to protect the child from all forms of physical or mental violence... while in the care of parents(s)'.</p> <p><b>UNCRC Article 37</b> requires States to ensure 'no child shall be subjected to degrading treatment or punishment'.</p>	<p>The <b>positive impact</b> of the Children Wales Act (once commenced) is that all children in Wales will have protection under the law from physical punishment.</p> <p>The current existence of the defence of reasonable punishment allows physical punishment of children as long as any resulting injury is 'transient or trifling'<sup>13</sup>. This does not meet the human rights obligations set by relevant human rights treaty bodies, including the UNCRC, European Committee of Social Rights; UN Human Rights Council; UN Committee on the Elimination of Discrimination Against Women; and International Covenant on Civil and Political Rights. Statements by these treaty bodies have identified less serious forms of physical punishment as being contrary to human rights, and they have consistently</p>	<p>The UN Committee on the Rights of the Child has made it clear it does not see the physical punishment of children as being compatible with the UNCRC. In the report of its fourth session in 1993 the Committee stated it <i>"recognized the importance of the question of corporal punishment in improving the system of promotion and protection of the rights of the child"</i>. The UNCRC defines 'physical punishment' as <i>"any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light."</i></p> <p>It has issued general comment No 8<sup>14</sup> to highlight its recognition of the right of the child to respect of their human dignity, physical integrity and equal protection under the law<sup>xi</sup> In consecutive Concluding Observations<sup>15</sup>, the Committee on the Rights of</p>	<p>The Children Wales Act does not state that parents cannot discipline their children; neither does it prohibit physical interventions by parents which do not involve physical punishment. The Children Wales Act does not prohibit the exercise of parental authority that may require physical interventions which are necessary for the purpose of using alternatives to physical punishment. This would include, for instance, carrying a child to a time-out area.</p> <p>Parenting support, information and advice will be available to all parents and this will include alternatives to using physical punishment.</p> <p>The Welsh Government will raise awareness about the change in the law that will set out how that might affect parents and children. This will take place prior to</p>

<sup>13</sup> Crown Prosecution Service (CPS) guidance has clarified that an offence of assault or battery against a child can only be considered to be common assault where the injury is transient and trifling and amounts to no more than a temporary reddening of the skin. Offences against the Person, incorporating the Charging Standard <https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard>

<sup>14</sup> United Nations Committee on the Rights of the Child (2006): Forty Second Session. General Comment No.8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. Geneva: United Nations

<sup>15</sup> <http://ww1.advancingchildrensrights.com/?sub1=20200923-2245-03c9-ab05-366bc8863307>

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
<p><b>European Court of Human Rights ECHR Article 3</b> Prohibits torture, and "inhuman or degrading treatment or punishment".</p> <p><b>ECHR Article 8</b> The right to respect private and family life</p> <p><b>ECHR Article 9</b> Freedom of thought, conscience and religion</p> <p><b>ECHR Article 10</b> Freedom of expression</p>	<p>been opposed to any form of corporal punishment.</p> <p>The Children Wales Act is consistent with the Welsh Government's commitment to children's rights under the UNCRC. This will have a <b>positive impact</b> on all children in Wales who will, in line with Article 19, know that they have the right to be protected from violence like everybody else. Through the Children Wales Act the Welsh Government will prohibit physical punishment against children in Wales.</p> <p>Some groups and individuals opposed to removing the defence of reasonable punishment have argued that it would be in contravention of Article 8 (the right to respect private and family life); Article 9 (Freedom of thought, conscience and religion); and Article 10 (Freedom of expression) of the European Convention on Human Rights.</p> <p>State interference in parenting is not prohibited by Article 8: it may be justified if it is prescribed by law, in pursuit of a legitimate aim, and necessary in a democratic society. The aim of the Children Wales Act is to protect the rights of children, as set out in the United Nations Convention on the Rights of the Child, in particular the right to</p>	<p>the Child has reiterated its recommendation for the UK to prohibit "<i>all corporal punishment in the family, including through the repeal of all legal defences, in England and Wales, Scotland, and Northern Ireland</i>". This recommendation was reiterated in the most recent report of the Committee in June 2016</p> <p>The European Committee of Social Rights, Conclusions XV-2 (United Kingdom) (2001), has also stated:</p> <p><i>"To prohibit any form of corporal punishment of children is an important measure for the education of the population in this respect in that it gives a clear message about what society considers to be acceptable. It is a measure that avoids discussions and concerns as to where the borderline would be between what might be acceptable corporal punishment and what is not."</i></p> <p>Concerns about the lack of an explicit prohibition on physical punishment in the home and about the legal defence of "reasonable punishment" have also been echoed by a number of other UN human rights bodies:</p> <ul style="list-style-type: none"> <li>• <b>UN Human Rights Council</b> - Report of</li> </ul>	<p>and after commencement of the new law.</p>

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
	<p>freedom from violence in and outside the home.</p> <p>The Children Wales Act will not prevent parents from holding religious beliefs, or from expressing those beliefs. It would merely prevent them from acting on a belief that physical punishment is a necessary form of discipline.</p> <p>Another <b>positive impact</b> is that while corporal punishment in schools is prohibited, the defence of reasonable punishment is available to someone acting in loco parentis. There is, arguably, an even stronger case for a ban on all forms of physical punishment by anyone who is not the child's parent.</p> <p>The Welsh Government considers that the Children Wales Act brings Wales in line with recommendations of the UN Committee on the Rights of the Child, which has stated that the defence is incompatible with Wales' obligations under article 19 (protection from all forms of violence) of the United Nations Convention on the Rights of the Child. It also accords with the recommendations of a number of other key</p>	<p>the Working Group on the Universal Periodic Review of United Kingdom of Great Britain and Northern Ireland (published 14 July 2017).<sup>16</sup></p> <ul style="list-style-type: none"> <li>• <b>UN Committee on the Elimination of Discrimination Against Women</b><sup>17</sup> - Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland (published 30 July 2013)</li> <li>• <b>International Covenant on Civil and Political Rights</b><sup>18</sup> - UN Human Rights Committee Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland (published 17 August 2015)</li> </ul> <p>The ECHR has considered a number of cases brought by children and parents opposed to a ban on corporal punishment.</p> <p>It has previously ruled inadmissible cases opposing bans on physical punishment based on articles 8 &amp; 9. In the case</p>	

<sup>16</sup> <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>

<sup>17</sup> <https://www.ohchr.org/en/hrbodies/cedaw/Pages/CEDAWIndex.aspx>

<sup>18</sup> <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsg%2F0K3H8qae8NhlDi53MecJ8Es8JxwwaL1HQ8hgVMkgor%2Ba2BnDTW%2FHC6BlyM8TPJNF%2F6qe%2Bcdb0NBnXp%2BA57rBA17cvjmBwuivD2gq5FYEj>

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
	international bodies such as the UN Human Rights Council and the UN Committee on the Elimination of Discrimination Against Women	<p>of <i>Abrahamsson v Sweden</i> 1987<sup>19</sup> the Commission found that “<i>the scope of the Swedish law of assault and molestation is a normal measure for the control of violence and that its extension to apply to the ordinary physical chastisement of children by their parents is intended to protect a potentially weak and vulnerable member of society</i>”.</p> <p>The UK courts also considered a case brought by parents and teachers opposed to a ban on corporal punishment - <i>Williamson v UK</i> 2000<sup>20</sup>. The Claimants said they were concerned with something more important than the physical integrity, namely the moral integrity of the child, and that any distress is justified by the objective. The High Court rejected this argument and the Court of Appeal held</p>	

<sup>19</sup> The claimant, a parent in Sweden, complained that the amendment to the Swedish law relating to the corporal punishment of children violated his right to respect for his family life, to freedom of religion, to respect for his right to ensure that his children's education and teaching is in conformity with his own religious and philosophical convictions. The Commission concluded that the state of Swedish criminal law did not interfere with their right to respect for private and family life within the meaning of Article 8 and “no interference with the applicant's right as guaranteed by Article 9”

<http://webcache.googleusercontent.com/search?q=cache:FxNseZBLPIgJ:hudoc.echr.coe.int/app/conversion/pdf/%3Flibrary%3DECHR%26id%3D001-443%26filename%3D001-443.pdf+%cd=1&hl=en&ct=clnk&gl=uk>

<sup>20</sup> The claimants, challenged the extension of the ban on corporal punishment in all schools (section 548 of the Education Act 1996), on the ground that it was incompatible with their right to freedom of religion and freedom to manifest their religion in practice, guaranteed by art 9 of the Convention. The claimants claimed to speak on behalf of a ‘large body of the Christian community’ whose beliefs regarding the use of corporal punishment by both parents and teachers were based on their interpretation of certain passages in the Bible. Their application for judicial review was rejected, as was their appeal to the Court of Appeal.

<http://echr.ketse.com/doc/29308.95-en-19970521/view/>

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
		<p>that the ban on corporal punishment in schools “<i>did not materially interfere with the parents’ rights under Article 9</i>”. In addition it stated “<i>What section 548 prevents is the teachers acting on their beliefs. It does nothing to prevent them and the parents from holding those beliefs, or from conveying those beliefs to others by any means that they think fit.</i>”</p> <p>The Joint Committee on Human Rights (2003-4)<sup>21</sup> said that section 58 of the Children Act 2004 (which removed the availability of reasonable punishment as a defence to more serious offences of assault) was likely to satisfy Article 3 ECHR as currently interpreted by the European Court of Human Rights. However it went on to say it did not fully meet the UNCRC or International Covenant on Economic, Social and Cultural Rights obligations, as interpreted by the relevant Committees</p> <p>ECHR Article 8: respect for private and family life, includes the concepts of “physical and bodily integrity”. Although untested in the courts, this could possibly afford protection going beyond that provided by Article 3, to support the legitimacy of legislation to remove the</p>	

<sup>21</sup> <https://publications.parliament.uk/pa/jt200304/jtselect/jtrights/161/16107.htm>

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
		<p>defence of reasonable punishment.</p> <p>Article 9: freedom of religion and belief has not been used successfully in challenging a ban on physical punishment, either in the domestic courts or in the ECHR.</p>	

## References

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- <sup>ii</sup> Dex, S and Joshi, H. (2004) “Millennium Cohort Study”, Institute of Education, 2004
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