

**Wales, Devolution and Equal Protection:
Welsh Government commitments and support from the
National Assembly for Wales**

2002	
24 January	Short Debate in the National Assembly for Wales: Hitting People is Wrong, and Children are People too (Christine Chapman, AM)
September	Welsh Assembly Government extends the definition of Domestic Violence to include the physical punishment of children
23 October	<p>The Welsh Government's support for legislation to achieve equal protection for children under the law on assault is a matter of public record. Extracts from the Ministerial Statement:</p> <p>"The recent observations of the UN Committee on the Rights of the Child concluded that current legislation in the UK does not comply with the principles of the UN Convention. It recommended that corporal punishment in families and all other contexts should be prohibited in law, concluding that action should be taken to promote non-violent forms of discipline, respect for children's rights to human dignity, including through public education programmes. I shall write to John Denham expressing the support of the Welsh Assembly Government for these views. We were acknowledged by the UN Committee for endorsing the UN Convention in our framework for children and young people.....</p> <p>The Welsh Assembly Government, in the steps I have described, has taken the first steps towards tackling the issue. The experience of other countries shows that this is not a short term matter. We need to begin by deciding that physical punishment is not an appropriate method for parents and carers to adopt in their relationships with children. We long ago accepted that physical punishment of adults is inappropriate. I believe those standards should be applied to our children."</p>
2003	
April	<p>Welsh Assembly Government part fund a Children are Unbeatable! (CAU!) Co-ordinator based at Children in Wales through the Government's Children and Families Organisation Grant (CFOG).</p> <p>The aim of the post as set out in the funding application is to: "build a well-</p>

	<p>informed confident and inclusive All Wales campaign in support of legal reform and which can support children, parents, professionals and government in achieving the cultural shift required.”</p> <p>The post is part funded by the Welsh Assembly Government for four years.</p> <p>The work plans for the CAU! Co-ordinator include:</p> <ul style="list-style-type: none"> • Developing public education materials and information for parents encouraging use of positive, non-violent parenting. • Piloting and evaluating parenting programmes to support vulnerable parents in using non-violent methods of disciplining their children. • Recruiting supporters to the CAU! Campaign in Wales. • Campaigning at Westminster to push an amendment to the Children Bill which would remove the defence of ‘reasonable chastisement’ and bring about equal protection under the law in England and Wales. The campaign was led by Welsh parliamentarians including Julie Morgan (then an MP), Elfyn Llwyd, Baroness Finlay of Llandaff and Baroness Gale.
Various dates in 2003	<p>The Welsh Assembly Government makes representations to Westminster during the passage of the Children Bill calling for legal reform and the removal of the legal defence of ‘reasonable chastisement’. Including: letters to and meetings with UK Ministers; responding to Safety & Justice, Every Child Matters consultations.</p> <p>Examples reported in the National Assembly include:</p>
24 June	<p><i>“Today the physical punishment of children has been in the headlines and I welcome the Parliamentary Joint Committee on Human Rights calling for an end to parents using physical punishment. I have already stated in Plenary the Assembly Government’s opposition to physical punishment and have written to the UK Government pressing for them to legislate.”</i> (Jane Hutt, AM, Minister for Children)</p>
8 October	<p><i>“The Assembly has stated its opposition to physical punishment, or smacking, in all contexts, and we are at the forefront in terms of banning physical punishment in all types of public care. As you know, I have written to the UK Government to make our position clear and to state our desire for the defence of reasonable chastisement to be revoked..... We must now find other ways in which we can take this forward, not only in terms of the UK Government but also in terms of initiatives in Wales.”</i> (Jane Hutt, AM, Minister for Children)</p>
2004	
14 January	<p>During a debate on the Children’s Green Paper (which became the Children Act, 2004), over two thirds of the National Assembly for Wales voted to regret that the UK Government had failed to take action to ban the physical punishment of children.</p>

	<p><i>“The National Assembly regrets that the UK Government continues to retain the defence of reasonable chastisement and has taken no significant action towards prohibiting the physical punishment of children in the family” (In favour 41, Abstain 3, Against 9)</i></p>
January	<p>Fact finding visit to Sweden to explore that country’s experiences of banning smacking 25 years previously. The Welsh Assembly Government’s Minister for Children attends as do a number of AMs and Welsh MPs.</p>
February	<p>The Welsh Assembly Government issues <i>Rights to Action</i> setting out its proposals for policy and provision for children and young people in Wales¹. It includes the following statement:</p> <p><u><i>“Corporal Punishment</i></u></p> <p><i>The UN Convention on the Rights of the Child deals with smacking under Article 19, which states that children should be properly cared for and protected from violence, abuse and neglect by their parents or anyone else who looks after them. Article 18 states that governments should help parents by providing services to support them.</i></p> <p><i>The Assembly Government believes that the current legal defence of ‘reasonable chastisement’ should be ended. We wish to encourage respect for children’s rights to human dignity and nonviolent forms of discipline, including through public education programmes. We have made representations to the UK Government about this.</i></p> <p><i>We do not accept that smacking teaches children how to behave as they grow up. Children who are smacked are more likely to believe that the strong get their own way and that violence is an acceptable manner of expressing a view or dealing with anger or frustration.</i></p> <p><i>We believe that we must respect what children themselves have told us: that a smack serves to create distrust, fear and dislike, but is not the best way to instill respect for the adult or acceptance of their values.</i></p> <p><i>The Assembly Government has banned smacking in every form of public and regulated care in Wales. We want to make sure that parents and carers have the information and advice they need on effective ways of dealing with children’s behaviour, including alternatives to physical discipline. We are funding a public education programme including the production of information leaflets and the provision of advice.”</i></p>

¹ Rights to Action. Available at:
<http://wales.gov.uk/topics/childrenyoungpeople/publications/rightstoaction/?lang=en>

4 May	<p>Statement by the Minister for Children in the National Assembly.</p> <p><i>I am pleased that Members have raised the issue of the opportunity that we hope this forthcoming legislation will offer the Government to take a stand, as the Welsh Assembly Government has taken a stand, in favour of children's rights by removing the defence of reasonable chastisement. . . .</i></p> <p><i>This is not about criminalising parents; this is about ensuring that children have the same rights as adults regarding physical punishment and ensuring that this opportunity is used. I hope that the Government will support an amendment to the Bill and that there will be a free vote to take this forward². (Jane Hutt, AM Minister for Children)</i></p>
2005	
January	<p>Question tabled in the National Assembly</p> <p><i><u>Christine Chapman</u>: What steps is the Minister taking to realise the Welsh Assembly Government's commitment to encourage parents to use alternatives to physical punishment? (WAQ40725)</i></p> <p><i><u>Jane Hutt</u>: The parenting action plan will become the Assembly Government's vehicle for taking forward the promotion of positive parenting in Wales. The draft action plan will be published for public consultation in the new year.</i></p>
March	<p>TACKLING DOMESTIC ABUSE : the all-Wales National Strategy³ (Extract):</p> <p><i>"Encouraging policies that oppose the smacking of children and seeking to promote alternatives to physical discipline. The Assembly will be developing a Parenting Action Plan to take this agenda forward".</i></p>
2006	
May	<p><i>Help at Hand</i> project launched by the Minister for Children in Llansawel, Briton Ferry, Neath.</p> <p>The project pilots a week of activities providing information, support and advice to vulnerable parents about alternatives to smacking (in partnership with Communities First, Barnardo's, NCH Action for Children and a number of local organisations). The project is evaluated.</p> <p>Following this project a tool kit was developed to '<i>change attitudes and</i></p>

² Children Bill Debate NafW May 4th 2004 Extract

³ Accessed at:

<http://wales.gov.uk/ds/jlg/publications/commmunitysafety/domesticabusestrategy/strategye.pdf;jsessionid=F97E3637519220198B914F7D0EE061C7?lang=en> , p16

	<p><i>behaviour around the physical punishment of children</i>’ and support parents to use alternative methods when disciplining their children.</p> <p>The toolkit is widely disseminated to parenting and community organisations across Wales throughout 2006 and 2007</p> <p>Toolkit is still live and has continuing relevance for working with parents: http://www.helpathandtoolkit.info/</p>
2007	
March	<p>Dissemination of <i>Help at Hand</i> toolkit continues with support of the Welsh Assembly Government’s CFOG fund (as above)</p> <p>Proposals for a ‘public education campaign’ to accompany law reform are submitted to the Welsh Assembly Government by <i>Children are Unbeatable! Cymru</i>.</p> <p>Dedicated Welsh Assembly Government funding for the CAU! Coordinator post comes to an end. Work on campaigning for legal reform and disseminating the <i>Help at Hand</i> toolkit and other materials to support parents to change attitudes and behaviour around the physical punishment of children, continues to be taken forward by Children in Wales (and included in the grant provision received from the Welsh Assembly Government).</p>
July	<p>The Welsh Government tells the UN Committee on the Rights of the Child that they were committed to banning physical punishment but they do not have the power to change the law. This is recorded in the UK’s report to the UN Committee⁴:</p> <p><i>“The Welsh Assembly Government has already committed itself to supporting a ban on physical punishment of children and has funded publication of a booklet called Help in Hand given to all new parents that advises on positive ways of dealing with behaviour and avoiding smacking.”</i></p>
2008	
3 October	<p>In response, the UN Committee on the Rights of the Child noted in its Concluding Observations on the UK’s periodic report⁵:</p>

⁴ UN Committee on the Rights of the Child: Third and fourth periodic reports of the United Kingdom of Great Britain and Northern Ireland. Available at:

<http://www.unhcr.org/refworld/type,STATEPARTIESREP,,GBR,4806162b2,0.html>

⁵ UN Committee on the Rights of the Children (2008) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland: Available at:

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

	<p><i>“the commitment of the National Assembly in Wales to prohibiting all corporal punishment in the home, but notes that under the terms of devolution it is not possible for the Assembly to enact the necessary legislation.”</i></p> <p>In a follow up Memorandum to the UK Government, the Council of Europe’s Commissioner for Human Rights welcomed the strong support that the Welsh Government had expressed for removal of the reasonable punishment defence.</p>
15 July	<p>During the Plenary debate on the Vulnerable Children Legislative Competence Order in the National Assembly, the Deputy Minister for Social Services expressed support for a ban on physical punishment:</p> <p><i>“The scrutiny of the Order has provided the Assembly Government with the opportunity to reinforce its commitment to this agenda and its support for the United Nations Committee on the Rights of the Child’s call for a global ban on physical punishment.”</i>⁶</p>
2009	
November	<p>The Welsh Government launches its UNCRC Action Plan for Wales - <i>Getting it right</i>⁷, in response to the UN Committee on the Rights of the Child Concluding Observations of 2008. The five year action plan Includes as one of 16 priorities: <i>Working to make physical punishment of children and young people illegal in all situations.</i></p> <p>The Welsh Government’s action plan continues:</p> <p><i>“In June 2009, Welsh Ministers signed up to the Children are Unbeatable Campaign Statement: We remain committed to the United Nations Committee on the Rights of the Child’s call for a global ban on physical punishment which will:</i></p> <ul style="list-style-type: none"> • <i>fulfil children’s human rights</i> • <i>reduce violence against children</i> • <i>improve the effectiveness of child protection</i> • <i>provide a foundation for promotion of positive discipline that works</i> <p><i>We have a long-standing policy of opposition to corporal punishment and promote positive, non-violent forms of discipline. We accept the UN Committee’s recommendation that the ‘reasonable punishment’ defence ought to be removed, so that children and young people can enjoy the same level of protection in law as adults do”.</i></p>

⁶ Record of Proceedings, National Assembly for Wales, 15th July 2008
<http://www.assemblywales.org/bus-home/bus-third-assembly/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=93189&ds=7%2F2008#rhif4>

⁷ <http://wales.gov.uk/docs/dcells/publications/091117gettingitrighten.pdf>

Through 2009 – 2010 and onwards	Work continues on promoting positive parenting messages through Welsh Government funded programmes such as Flying Start and Incredible Years as well as through parenting support programmes provided by Barnardo’s Cymru, Action for Children and NSPCC.
2011	
October	A letter from the First Minister states: <i>“The Welsh Ministers’ view is that it would be possible for legislation to be passed by the Assembly... whose effect would be to bring to an end the availability of the defence of reasonable punishment for those cases where it still applies for an offence of assaulting a child.”</i>
19 October	The National Assembly voted by a majority of 24 to 15 to urge the Welsh Government to introduce this legislation. Government ministers abstained.
18 January	The Rights of Children and Young Persons (Wales) Measure 2011 received unanimous cross- party support when it was passed by the National Assembly.
16 May 2011	The Measure comes into force, making Wales the first in the UK to incorporate into its legislation direct obligations to give “due regard” to the UN Convention on the Rights of the Child in developing legislation and policy. ⁸
2012	
Throughout the year	Welsh Government continues to promote positive parenting messages, including through the new Families First scheme.
2013	
28 January	Social Services and Well-being (Wales) Bill is introduced. It does not contain a provision to remove the defence of ‘reasonable punishment’ giving children equal protection.
March	Stage 1 consultation on the Bill closes. There is no specific question on equal protection. Forty-three responses ⁹ make some reference to children and 20 ¹⁰ of those called for such a provision to be included in the Bill. Children Are Unbeatable! Cymru say that the Bill does not deliver its stated objectives as it

⁸ Rights of Children and Young Persons (Wales) Measure, 2011, section 1

⁹ Letter from Children and Young People Committee to Health and Social Care Committee, 3 May 2013 p9 paragraph 13 (note that there seems to be an inconsistency between the figures in this section and the number of organisations listed in Annex B)

¹⁰ Letter from children and Young People Committee to Health and Social Care Committee, 3 May 2013, Annexe B, p33

	does not include such a provision.
April - June	<p>During scrutiny of the Social Services and Well-being (Wales) Bill by the Assembly's Health and Social Care Committee and Children and Young People Committee, the issue of amending the Bill to include a provision to remove the 'reasonable punishment' defence is raised and discussed.</p> <p>In their report to the Health and Social Care Committee the Children and Young People write:</p> <p><i>"the most consistent single issue relevant to children and young people has been highlighted by those consultees who have called for the Bill to amend Section 58 of the Children Act 2004 which relates to 'reasonable punishment'."</i></p>

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