



## **Barnardo's Northern Ireland**

### **Evidence to the Committee for Justice**

#### **Justice Bill**

At Barnardo's, our purpose is clear - changing childhoods and changing lives, so that children, young people, and families are safe, happy, healthy, and hopeful. Last year in Northern Ireland, we worked with approximately 18,000 children, young people and families across more than 40 different services and programmes.

We deliver a wide range of services, from providing family support and early intervention, to working directly with children and families who have experienced adversity and need our support. For over 150 years, we've been here for the children and young people who need us most – bringing love, care and hope into their lives and giving them a place where they feel they belong.

Barnardo's NI welcomes the opportunity to provide written evidence on the Justice Bill to the Committee for Justice. We welcome the intention of the Justice Bill to improve aspects of the justice system for children and young people. Our evidence will focus on the necessity for amendments to the Bill to ensure children in Northern Ireland enjoy the same protections from abuse as their peers elsewhere in the UK, and to raise the minimum age of criminal responsibility. In both these areas, Northern Ireland is behind other nations in the UK, and the world. This Bill presents an opportunity to bring Northern Ireland's legislation up to par on these issues and provide children with the same safeguards as their peers elsewhere.

#### **1. Equal Protection amendment – remove the defence of reasonable punishment**

- 1.1. At present in Northern Ireland, a parent or someone caring for or in charge of a child has a defence in the law for using physical punishment against that child. This means that children are afforded less protection from assault than adults, where no such defence exists. In Scotland, Wales and the Republic of Ireland, legislative steps have been taken to ensure children have the same protection from assault as adults. MPs in Westminster are considering amendments to the Children's Wellbeing and Schools Bill which would provide children in England with this protection.

- 1.2. Alongside colleagues in many other organisations, such as the Northern Ireland Commissioner for Children and Young People (NICCY), NSPCC NI, the Children’s Law Centre, the British Association of Social Workers NI, the Royal College of Paediatrics and Child Health, Parenting NI and Mencap, we have campaigned for years for equal protection for children in Northern Ireland.
- 1.3. Research<sup>1</sup> has shown that there is strong, consistent evidence that physical punishment is ineffective in improving children’s behaviour, and in fact has an adverse impact on children’s wellbeing. The Equally Protected report highlighted a cyclical effect whereby physical punishment increases problematic behaviour, damages family relationships and found links between physical punishment and child maltreatment.
- 1.4. Barnardo’s NI recommends that the Committee for Justice considers an amendment to this Justice Bill to amend the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 to remove the defence of ‘reasonable punishment’ for parents and carers who are accused of assault against a child. This amendment to the Justice Bill would not create a new offence, rather it would remove a legal defence for an existing offence.
- 1.5. Barnardo’s NI recommends that this change in the law is accompanied by an awareness raising campaign targeted to parents to make them aware of the change in the law, and where help and advice is available if they need or want parenting support. Legislative change can be a powerful driver for changing public attitudes, and we want to support parents and carers as this change comes into effect. Through our parenting support services and programmes, we work closely with parents and carers to share information and highlight positive parenting and boundaries setting with their children.
- 1.6. When the Welsh Government passed legislation in January 2020 to bring in equal protection for children in Wales, they also committed to an awareness raising campaign to make parents and carers aware of the change in the law. In September 2021, six months before the new legislation comes into force, the Welsh Government launched a high-profile multi-media campaign<sup>2</sup>, which received coverage from major media outlets<sup>3</sup>.

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<sup>1</sup> <https://learning.nspcc.org.uk/research-resources/2015/equally-protected>

<sup>2</sup> <https://gov.wales/wales-begins-countdown-end-physical-punishment-children>

<sup>3</sup> <https://www.theguardian.com/uk-news/2021/sep/20/welsh-government-launches-smacking-ban-ad-campaign-before-law-change>

## **2. Minimum age of criminal responsibility amendment**

- 2.1. Over a decade ago, ‘A Review of the Youth Justice System in Northern Ireland’<sup>4</sup> highlighted the need for fundamental change in many areas of the youth justice system, including the importance of raising the age of criminal responsibility. Sadly, little action has been taken to implement the recommendations from this review, and the age of criminal responsibility in Northern Ireland still remains among the lowest in the world. Barnardo’s NI believes that the minimum age of criminal responsibility in Northern Ireland should be raised to 16 years old.
- 2.2. The cost to Northern Ireland of a low age of criminal responsibility has been much more than a financial one. The impact on children, families and communities on criminalising children from such a young age can be lifelong and have ripple effects beyond any incident itself<sup>5</sup>. It is imperative that we do not only look at the legal context of the minimum age of criminal responsibility; we should also examine the support we provide to children that come into contact with the youth justice system in Northern Ireland, and how we need to rethink and reshape our approach.
- 2.3. Crucially, children should be supported outside of the justice system. Evidence has shown that once children have had contact with the justice system, to any extent, they are much more likely to be caught in a cycle which can continue to circle back to the justice system throughout their life.<sup>6</sup> This is not only detrimental for the child and their life, but their family and the community they live in. Our strong community and voluntary sector in Northern Ireland is well positioned and equipped to provide this support.
- 2.4. As highlighted by the Children’s Law Centre, Include Youth, VOYPIC, and NIACRO in their Joint Briefing<sup>7</sup>, the community and voluntary sector in Northern Ireland, and statutory support through health agencies, is well established and equipped to support children, that would normally be caught up in the youth justice system, through alternative pathways.
- 2.5. The 2011 Youth Justice Review noted the complex lives of children who come into contact with the justice system at an early age. The review highlighted that care experienced children are overrepresented in the justice system, as well as children with mental health concerns and those with substance use concerns. In 2021,

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<sup>4</sup> Youth Justice Review Team, 2011, ‘A Review of the Youth Justice System in NI’, Department of Justice NI

<sup>5</sup> Children’s Law Centre, Include Youth, VOYPIC, and NIACRO, 2022, Joint Briefing – 10 Reasons Why 10 Is Too Young. <https://childrenslawcentre.org.uk/stop-criminalising-our-children/>

<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/185936/breaking-the-cycle.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/185936/breaking-the-cycle.pdf)

<sup>7</sup> <https://childrenslawcentre.org.uk/stop-criminalising-our-children/>

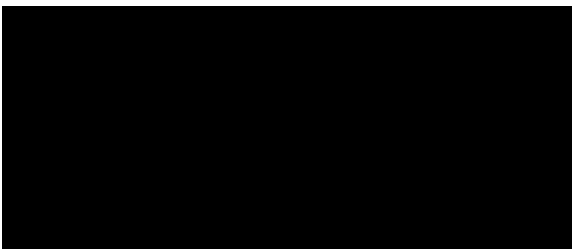
'Tracing the Review'<sup>8</sup> examined the implementation of the 2011 recommendations, and it highlights that this has not changed in the past decade.

- 2.6. Where children display harmful or offending behaviours, it is essential that they receive the support they need to ensure that underlying issues are addressed. These can include the impact of Adverse Childhood Experiences<sup>9</sup> (ACEs), including domestic abuse, parental substance misuse, or sexual or physical abuse which can impact development from a young age and the relationships that we form with others.
- 2.7. As set out in the Joint Briefing, there are more effective ways of supporting children who display offending behaviour than engaging them in the youth justice system. By focusing on wellbeing and rehabilitation, less children will end up in the justice system both in the short and long term, which will lead to better outcomes for children, families and communities.<sup>10</sup>

Barnardo's NI welcomes the opportunity to provide written evidence to the Committee for Justice on the Justice Bill. Barnardo's NI strongly recommends that amendments are made to the Bill to provide children with equal protection from assault, as adults currently enjoy, and to raise the minimum age of criminal responsibility

We look forward to providing oral evidence to the Committee to provide further details, answer any questions that Members may have and reflect the experiences of the children and families we support.

*For further information, please contact:*



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<sup>8</sup>[https://pureadmin.qub.ac.uk/ws/portalfiles/portal/263877347/TRACING\\_THE\\_REVIEW\\_PDF.pdf](https://pureadmin.qub.ac.uk/ws/portalfiles/portal/263877347/TRACING_THE_REVIEW_PDF.pdf)

<sup>9</sup> <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/11/Academic-Insights-Gray-et-al.pdf>

<sup>10</sup> <https://childrenslawcentre.org.uk/stop-criminalising-our-children/>