

Meeting with HMCTS – 24 April 2019

Attendees

Hugh Simkiss, Head of Civil, Family and Tribunals for Wales

Peter Curran, Acting Deputy Justices Clerk/Specialist Family Lead for HMCTS
Wales

Sarah Canning, Welsh Government

xxxx xxxx, Welsh Government

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

An update on the bill was given to HMCTS and copies of the Justice Impact Assessment (JIA) and the Explanatory Memorandum (EM) were provided. The bill was introduced by the Deputy Minister for Health and Social Services on 25 March; the bill is now into the stage 1 scrutiny stage. The Children, Young People and Education Committee will scrutinise the bill and invite key stakeholders to give evidence on the bill. HMCTS confirmed that the Ministry of Justice will engage with the committee but Judiciary and the Courts are unlikely to provide evidence other than possibly a written paper. Welsh Government will provide links to the bill documentation and impact assessments.

Impacts on Criminal and Family Courts

The impacts on justice system have been set out in the EM and the JIA. It is expected that there will be 37 extra criminal prosecutions over 5 years which is not a large increase in the volume of cases coming before the courts. The MOJ has estimated the costs for these as low, under £60K.

Concerns remain regarding the impacts on the Family Court with regard to delays in proceedings through reports of physical punishment by one party involved in the case. The impacts on the number of cases delayed by this are impossible to know however awareness of the change in the law is in itself likely to increase reports and therefore cause delays in cases

There are around 6,000 children involved in private law cases annually in Wales. There was an increase of 7 per cent in 2017/18 on the previous year. The legislation makes physical punishment a criminal offence and therefore Cafcass Cymru will have to report it to courts if the bill is passed. This will generate additional investigation and therefore potential delay and complications to individual cases.

It is difficult to estimate the impacts these delays and the awareness raising could have in terms of costs. Methods to consider how to cost these impacts and monitor them will be part of the remit of the Strategic Implementation Group.

Strategic Implementation Group

Both Cafcass Cymru and HMCTS will be represented on the Strategic Implementation Group, one of the areas the group will look into is parenting support

and how that can support parents and families with regard to the change in the law as well as looking at existing provision including mediation between separating couples. Welsh Government will discuss with Cafcass Cymru through the group how or if parenting support can assist in that work.

The group will also look in more detail around the impacts on public and private law cases with regard to Cafcass Cymru's role with the submission of reports and narratives to the court and wider impacts this may have on parents and potential criminalisation, out of court disposals and DBS records.

HMCTS would welcome the support of the Welsh Government to deliver awareness raising of the law change for professionals. It will be important that legal professionals including judges and solicitors are made aware of the law changing and the divergence between England and Wales.