

**National Assembly for Wales**  
Communities, Equality and  
Local Government Committee

**Gender-based Violence, Domestic  
Abuse and Sexual Violence (Wales)  
Bill: Stage 1 Committee Report**

November 2014



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

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## **Communities, Equality and Local Government Committee**

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: Wales's culture; languages; communities and heritage, including sport and the arts; local government in Wales, including all housing matters; and equality of opportunity for all.

### **Current Committee membership**



**Christine Chapman (Chair)**  
Welsh Labour  
Cynon Valley



**Peter Black**  
Welsh Liberal Democrats  
South Wales West



**Alun Davies**  
Welsh Labour  
Blaenau Gwent



**Jocelyn Davies**  
Plaid Cymru  
South Wales East



**Janet Finch-Saunders**  
Welsh Conservatives  
Aberconwy



**Mike Hedges**  
Welsh Labour  
Swansea East



**Mark Isherwood**  
Welsh Conservatives  
North Wales



**Gwyn R Price**  
Welsh Labour  
Islwyn



**Gwenda Thomas**  
Welsh Labour  
Neath



**Rhodri Glyn Thomas**  
Plaid Cymru  
Carmarthen East and Dinefwr

The following Members were also members of the Committee during this inquiry:



**Leighton Andrews**  
Welsh Labour  
Rhondda



**Jenny Rathbone**  
Welsh Labour  
Cardiff Central

# Contents

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<b>Summary of recommendations</b> .....	<b>5</b>
<b>1. Introduction</b> .....	<b>7</b>
Terms of scrutiny .....	7
The Committee’s approach .....	8
<b>2. General principles and need for legislation</b> .....	<b>9</b>
The White Paper .....	9
The Bill.....	10
Purpose of the Bill .....	11
Public Attitudes .....	12
Human rights and gender-specific terminology .....	13
Perpetrator Programmes .....	15
<b>3. Education</b> .....	<b>20</b>
<b>4. Children and Young People</b> .....	<b>26</b>
Rights of children and young people .....	26
Reasonable punishment of children .....	29
<b>5. National and Local Strategies</b> .....	<b>35</b>
<b>6. Performance measures and guidance</b> .....	<b>41</b>
National indicators .....	42
Statutory guidance.....	43
<b>7. Ministerial Adviser</b> .....	<b>48</b>
<b>8. Definitions</b> .....	<b>53</b>
<b>9. Financial implications</b> .....	<b>57</b>
<b>Annexe 1: Written and Oral Evidence</b> .....	<b>61</b>



## Summary of recommendations

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The Committee's recommendations to the Minister are listed below, in the order that they appear in this report. Please refer to the relevant pages of the report to see the supporting evidence and conclusions.

**Recommendation 1.** We recommend that the Assembly agrees to the general principles of the Bill. (Page 18)

**Recommendation 2.** We recommend that the Minister amends the Bill in the following ways:

- to provide for a rights-based framework to ensure a statutory right to services for victims;
- to refer to Violence Against Women, rather than Gender-Based Violence. This should not preclude men accessing services but should ensure that services are tailored to the specific needs of men and women respectively;
- to specifically refer to the direct and indirect impact that violence against women, domestic abuse and sexual violence has on children, regardless of their gender. (Page 18)

**Recommendation 3.** We recommend the Minister amends the Bill to make provision for compulsory, whole-school, age-appropriate education programmes on healthy relationships. (Page 25)

**Recommendation 4.** We recommend the Minister amends the Bill to make specific reference to the UN Convention on the Rights of the Child, to ensure that authorities have regard to this in complying with their duties under the Bill. (Page 28)

**Recommendation 5.** We recommend that the Minister clarifies the Welsh Government's policy position in relation to the removal of the defence of the reasonable punishment of a child. (Page 34)

**Recommendation 6.** We recommend that the Minister amends the Bill to provide for:

- the national strategy to include a set of minimum requirements for the design, implementation and monitoring of local strategies;

- a duty on Welsh Ministers and local authorities to consult with service providers, the police, victims and any other relevant groups in the design of the national and local strategies; and
- a lead officer within each local authority with the responsibility for ensuring delivery of the local strategy. (Page 40)

**Recommendation 7.** We recommend that the Minister ensures that the National Training Framework is available to specialist service providers as well as public sector staff. (Page 47)

**Recommendation 8.** We recommend that the Minister amends the Bill to:

- provide for an adviser independent of government, supported by a secretariat drawn from outside the civil service;
- change the title of the role to reflect this arms-length position;
- give the adviser the power to monitor progress of delivery of local strategies and conduct investigations in cases where performance is unsatisfactory. (Page 52)

**Recommendation 9.** We recommend that the Minister amends the Bill to adopt:

- the United Nations definition of 'violence against women';
- the Home Office definition of 'domestic violence and abuse',

with appropriate adjustments to ensure that these definitions correspond with other definitions used in the Bill. (Page 56)

**Recommendation 10.** We recommend that the Minister gives further consideration to the definition of sexual violence in light of the evidence we have received. (Page 56)

**Recommendation 11.** We recommend that the Minister gives further consideration to the level of funding allocated to the implementation of the Bill. (Page 59)

**Recommendation 12.** We recommend that the Minister makes the necessary arrangements to monitor the impact and effectiveness of the Bill, including the resources allocated and any increase in demand for services as a result of its implementation. (Page 60)



# 1. Introduction

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1. On 30 June 2014, the then Minister for Local Government and Government Business introduced the [Gender-based Violence, Domestic Abuse and Sexual Violence \(Wales\) Bill](#) ('the Bill') and accompanying [Explanatory Memorandum](#). The Minister made a [statement](#) on the Bill in plenary on 1 July 2014.
2. At its meeting on 10 June 2014, the Assembly's Business Committee agreed to refer the Bill to the Communities, Equality and Local Government Committee ('the Committee') for consideration of its general principles (Stage 1), in accordance with Standing Order 26.9. The Business Committee agreed that the Committee should report to the Assembly by 14 November 2014.
3. Following a change in Ministerial portfolios in September 2014, the First Minister authorised the Minister for Public Services, Leighton Andrews AM, as the Member in charge of the Bill. References in this report to 'the Minister' refer to the Minister for Public Services.

## Terms of scrutiny

4. The Committee agreed the following terms of reference for its Stage 1 inquiry:

To consider:

- i. the general principles of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill and the need for legislation to improve the Public Sector response in Wales to domestic abuse, gender-based violence and sexual violence, including:
  - the publication of national and local strategies; and
  - the appointment of a Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence.
- ii. any potential barriers to the implementation of these provisions and whether the Bill takes account of them;
- iii. whether there are any unintended consequences arising from the Bill;
- iv. the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum);

- v. the appropriateness of the powers in the Bill for the Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

### **The Committee's approach**

5. Between 11 July 2014 and 5 September 2014, the Committee conducted a public consultation to inform its work, based on the agreed terms of reference. 90 [responses](#) were received and published on the Assembly's website.
6. In addition, the Committee held oral evidence sessions with a number of witnesses. Details are available at [Annexe 1](#).
7. The following report details the Committee's conclusions and recommendations, based on the evidence received during the course of its inquiry. The Committee would like to thank all those who contributed to its work.

## 2. General principles and need for legislation

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### *Summary of evidence in this Chapter*

8. Respondents told us:
  - they supported the overall purpose and intent of the Bill, but had serious concerns about its content;
  - the provisions in the Bill as introduced enshrine current policy and practice rather than improving it; and
  - the Bill should be more ambitious, following the ground-breaking work that Wales has a reputation for in this area, particularly around changing long-term attitudes.

### **Background**

#### **The White Paper**

9. The Welsh Government undertook a [White Paper consultation on legislation to end violence against women and domestic abuse in 2012](#). A [summary of the 147 individual responses](#) was published in September 2013.

10. The White Paper's proposals focused on three specific areas:
  - stronger leadership across public sector services in Wales that is independent, provides a strategic overview and can monitor and challenge;
  - better education and awareness from the 'cradle to the grave', which includes the public, frontline staff and professionals; and
  - strengthening and integrating services that are consistent, effective and of a quality standard.
11. Specifically, the White Paper proposed to:
  - appoint an 'Independent Ministerial Adviser for Ending Violence Against Women' (Adviser);
  - require public services to collaborate on a local and regional level to develop and implement strategies to reduce violence against women, domestic abuse and sexual violence based on needs assessment analysis;
  - commission an independent review of services for victims;

- ensure that education on ‘healthy relationships’ is delivered in all schools, and to place a duty on local authorities to identify a regional champion to promote the issue educational settings;
- introduce a National Training Framework to which key public and specialist service providers will pay due regard;
- place various duties on devolved public sector bodies to:
  - contribute to multiagency fora that are convened to share information and promote the safety of individuals at risk of violence against women, domestic abuse or sexual violence;
  - ‘ask and act’ in relation to violence against women, domestic abuse and sexual violence, particularly in housing;
  - provide safe accommodation;
  - have workplace domestic abuse policies for their employees.

12. A Task and Finish Group was commissioned to produce a [report](#) to inform the content, delivery and enforcement of the Bill, which was published in August 2012. An [independent review of services](#) was also published in April 2014.

13. Not all the proposals from the White Paper or recommendations by the Task and Finish Group were included in the Bill. Proposals relating to healthy relationships education, workplace policies and safe accommodation were omitted from the Bill, to be taken forward through different means. The title of the Bill and the definitions used in it also changed.

### **The Bill**

14. The overarching objective of the Bill is to improve the public sector response in Wales to gender-based violence, domestic abuse and sexual violence. It is intended to provide a strategic focus on these issues and ensure consistent consideration of preventive, protective and supportive mechanisms in the delivery of public services.

15. There are four elements of the Bill, and the Explanatory Memorandum is structured around these:

- the duty to prepare and report on national strategies;

- the duty to prepare and report on local strategies;
- the power to issue statutory guidance and the duty to follow such guidance; and
- appointment of a Ministerial Adviser on gender-based violence, domestic abuse and sexual violence.

### ***Evidence from respondents***

#### **Purpose of the Bill**

16. Respondents overwhelmingly supported the purpose and intention of the Bill, although we heard evidence of significant concerns with its content.

17. Citizens Advice Cymru told us that the Bill offers “a significant opportunity for Wales to lead the way in the UK in reducing and preventing domestic violence and abuse, and strengthening the support available to victims”.<sup>1</sup>

18. Bawso stated that the Bill shows:

“(...) recognition and commitment to prevent violence from occurring, protect all women in Wales from violence and ensuring the provision of adequate services for those fleeing or at risk of violence.”<sup>2</sup>

19. However, Bawso also said that without gender-specific language and with the omission of preventative elements, the Bill would not achieve its aims.<sup>3</sup>

20. Many respondents were disappointed that some of the proposals in the White Paper were not included in the Bill, particularly those proposals relating to education and gender-specific terminology. On this point, Rape Crisis “feel strongly that the content of the Bill as published demonstrates a clear weakening of the original intent outlined in the White Paper”.<sup>4</sup>

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<sup>1</sup> Written evidence, GBV50

<sup>2</sup> Written evidence, GBV52

<sup>3</sup> Written evidence, GBV52

<sup>4</sup> Written evidence, GBV56

21. Llamau told us that without early intervention and prevention in schools, they did not think that the Bill could fulfil its potential.<sup>5</sup> The Survivors' Trust echoed this, saying that "education is key to making sure that this Bill is effective and that it works for young people and their families".<sup>6</sup>

22. The NSPCC stated:

"... it is going to be very difficult to deliver on the strategic and generational aims of this piece of legislation unless that question of education is actually contained within this Bill."<sup>7</sup>

23. The Survivors Trust called for a second principal policy aim to be added to the Bill to "improve the availability, consistency and quality of services available throughout Wales for victims/survivors of gender-based violence, domestic abuse and sexual violence".<sup>8</sup>

### **Public Attitudes**

24. Many of the responses to our consultation told us that the aims of the Bill could not be achieved without a change in public attitudes towards abuse, particularly violence against women. Education was cited as a key means of achieving this (explored in more detail in Chapter 4).

25. The Wales Violence Against Women Action Group stated that one of the original intentions of the Bill was to tackle wider societal attitudes towards violence against women and girls in order to challenge attitudes and focus on prevention. However, the Group said that they felt that this had been omitted from the Bill.<sup>9</sup>

26. The Action Group's evidence highlighted the "ground-breaking" work in Wales to change attitudes towards violence against women in recent years by "shifting focus towards perpetrators, wider forms of violence and unacceptable behaviour and away from focusing entirely on the victim." It said that, by making provision for this in the

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<sup>5</sup> Record of Proceedings (RoP), paragraph 204, 25 September 2014 (NB: unless otherwise stated, subsequent references in this report to 'RoP' refer to the proceedings of the Communities, Equality and Local Government Committee)

<sup>6</sup> RoP, paragraph 213, 25 September 2014

<sup>7</sup> RoP, paragraph 33, 17 September 2014

<sup>8</sup> Written evidence, GBV18

<sup>9</sup> Written evidence, GBV89

legislation, future governments would be obliged to carry on this “vital” work.<sup>10</sup>

27. Rape Crisis echoed this view, saying that the omission of such provision would mean that “the Bill will be limited in its ability to challenge attitudes”.<sup>11</sup>

28. The Wales Violence Against Women Action Group told us that “there is already a national strategy and that there are already local strategies and ministerial advisers”,<sup>12</sup> and that this Bill simply enshrined current policy and practice rather than making the changes necessary to reduce the prevalence of gender-based violence.

### **Human rights and gender-specific terminology**

29. According to the [\*Convention on preventing and combating violence against women and domestic violence\*](#), commonly referred to as the Istanbul Convention, gender-based violence is a form of discrimination and a violation of human rights. It is also a manifestation of historically unequal power relations between men and women.

30. Many respondents told us they supported separating the aim of reducing the prevalence of gender-based violence, which disproportionately affects women, and providing better access to services for the victims of abuse, regardless of gender. Welsh Women’s Aid summarised their argument for gender-specific terminology by saying:

“Violence against women (...) is the most pervasive human rights violation that we face- that is recognised by the United Nations. ‘Violence against women’ (...) is violence and abusive behaviours experienced disproportionately by women, or because they are women. That is not to say that men do not experience those crime types, those behaviours, and that is not to say that men and boys should not have access to services.

“(...) when we talk about violence against women as a framework, we are talking about strategy, policy and legislation. On the ground, specialist services and

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<sup>10</sup> Written evidence, GBV89

<sup>11</sup> Written evidence, GBV56

<sup>12</sup> RoP, paragraph 10, 25 September 2014

commissioning needs to happen for all victims; they need to have access to services, access to redress and also all perpetrators, male or female, need to have intervention.”<sup>13</sup>

31. The South Wales Police and Crime Commissioner drew attention to the existing Welsh Government violence against women and domestic abuse strategy, *The Right to be Safe*, which notes that “violence against women is both a cause and consequence of the legacy of women’s inequality and tackling it requires a distinct approach”.

32. The Equality and Human Rights Commission (EHRC) stated that the term “violence against women” was recommended by the Welsh Government Task and Finish Group's report, and this had led to the term being used in the White Paper consultation on legislation to end violence against women, domestic abuse and sexual violence.<sup>14</sup>

33. The Commission went on to say:

“The change of emphasis, to use and define the term gender-based violence is in contrast to the Welsh Government’s *The Right to be Safe* and the Home Office's 'A call to end violence against women and girls: action plan 2014,' which covers England and Wales.

“Violence against women is a consequence of continuing inequality between women and men, and is also a barrier to achieving equality.”<sup>15</sup>

34. Professor Jackie Jones argued that the Bill should be gender-specific rather than gender-neutral. She said that such an approach was “not proscribed by law”<sup>16</sup> and that the UN Committee on the Elimination of Discrimination against Women had criticised states that used a gender-neutral approach. She argued:

“Making legislation gender neutral implies that men are subject to the same systemic obstacles and inequality as women and have suffered from the same level of historic discrimination as women. This is not the case. (...) A gender-neutral approach

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<sup>13</sup> RoP, paragraph 23, 25 September 2014

<sup>14</sup> Written evidence, GBV65

<sup>15</sup> Written evidence, GBV65

<sup>16</sup> Written evidence, GBV06



cannot and will not improve ‘prevention, protection or support’ (as outlined in the Bill).<sup>17</sup>

35. She referred to a number of international precedents of gender-specific legislation and strategies, including the [‘Istanbul Convention’](#) and the [‘Convention of Belem do Pará’](#), both of which establish frameworks for the protection of women. She stated that the Istanbul Convention, to which the UK is a signatory, is “seen as the most progressive instrument in force today that clearly sets out [member] states’ obligations in the specific area of violence against women.” She said that, whilst the Convention does not exclude men, it “makes it clear that because of the vast numbers of victims of gender-based violence in Europe, the focus has to be women and girls.”<sup>18</sup>

36. A number of respondents, including the Equality and Human Rights Commission and the South Wales Police and Crime Commissioner, called for the title of the Bill to be changed. On this point, the Commissioner said that the title of a Bill is “important to signal the intentions of Legislators and Ministers as that can ‘change the weather’ in terms of public attitudes and understanding”. He provided a number of suggestions for changes to the title and the wording of the Bill in order to “take the Bill closer to the intentions in the White Paper”. Such changes, he said, would make clear that:

“ALL forms of domestic violence, sexual violence and violence within relationships are covered: An Act of the National Assembly for Wales to make provision in relation to violence against women & other domestic and sexual abuse.”<sup>19</sup>

### **Perpetrator Programmes**

37. We heard evidence from some respondents who were concerned about the omission of a reference to perpetrators and perpetrator programmes from the Bill. On this point, the Welsh Local Government Association (WLGA) said:

“In order to fully implement purpose 1(1)(a) of the Bill which relates to the prevention of gender based violence, domestic abuse and sexual violence, a whole part could be added to the

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<sup>17</sup> Written evidence, GBV06

<sup>18</sup> Written evidence, GBV06

<sup>19</sup> [Supplementary written evidence from the Police and Crime Commissioner for South Wales](#)

Bill to deal with perpetrators. This would ensure that legislation does not only relate to the punishment of the behaviour but would also address the whole offending behaviour.”<sup>20</sup>

38. Relate Cymru was also “disappointed that perpetrators are not really mentioned in this Bill, because they are, generally speaking, the cause of this problem. So, we think that it is very important that specific mention and instructions are included in this Bill on working with perpetrators.”<sup>21</sup>

39. They told us about their ‘voluntary perpetrator programme’:

“90% of the partners that we question sometime after the end of the programme say that there has been a complete stop in violence and intimidation by their partner.”<sup>22</sup>

### ***Evidence from the Minister***

40. In introducing the Bill, the original Member in charge, Lesley Griffiths AM, told us that:

“Violence against women is obviously a form of gender-based violence. I think it is safe to say that it is the most prevalent form of gender-based violence, and, obviously, it is therefore included in the Bill. Our position as a Government is unchanged. We recognise the Council of Europe and we agree with it regarding the gendered nature of domestic abuse and sexual violence and the fact that victims are predominantly women and perpetrators are predominantly men.”<sup>23</sup>

41. More recently, the new Member in charge, Leighton Andrews AM, Minister for Public Services, announced his intention to amend the Bill at Stage 2 to insert a new section that will “require those exercising the functions of the Bill (...) to have regard to violence against women and girls”.<sup>24</sup>

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<sup>20</sup> Written evidence, GBV81

<sup>21</sup> RoP, paragraph 186, 25 September 2014

<sup>22</sup> RoP, paragraph 201, 25 September 2014

<sup>23</sup> RoP, paragraph 7, 17 July 2014

<sup>24</sup> RoP, paragraph 3, 1 October 2014

42. He also told us that he had “not reached any final conclusions” about the title of the Bill and was “open to suggestions.”<sup>25</sup>

43. We asked the Minister about the omission of perpetrator programmes from the Bill. Responding to this, he said he did not believe such programmes were missing:

“... because, clearly, the Bill has a bearing on all persons affected by issues of gender-based violence, and that would, of course, include perpetrators as well.”<sup>26</sup>

### *Our view*

44. The principal policy aim of the Bill is to reduce the rates of gender-based violence, domestic abuse and sexual violence in Wales.<sup>27</sup> We support this aim, and we believe that legislation is both a necessary and vital component in achieving this. However, as drafted, we believe the Bill falls short.

45. Rather than providing for an ambitious new approach to tackling the persistent problem of abuse in a domestic setting, the Bill creates a structure for the services currently being provided to varying extents by different local authorities. In order to fulfil its potential in contributing to the prevention of gender-based violence, domestic abuse and sexual violence, significant changes need to be made to the Bill, most notably in respect of its approach to these issues, and in relation to education (discussed in detail in Chapter 4).

46. In considering the general principles of the Bill, we have sought to distinguish between violence against women, which is a gender-specific form of abuse, and the services that should be provided to any victim of domestic abuse or sexual violence, which, we believe, should be provided on the basis of need rather than gender. However, the delivery of these services needs to be tailored to the different needs of both genders. On this basis, we do not support the gender-neutral approach taken by the Minister in this Bill.

47. We welcome the Minister’s commitment to introduce a new section into the Bill specifically to require authorities to have regard to

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<sup>25</sup> RoP, paragraph 13, 1 October 2014

<sup>26</sup> RoP, paragraph 84, 1 October 2014

<sup>27</sup> [Explanatory Memorandum](#), paragraph 33

violence against women and girls in meeting their obligations under the Bill. However, we do not believe this goes far enough.

48. Instead, we believe the Bill should follow the approach proposed in the White Paper in understanding a life free from violence and abuse to be a right. To achieve this, the Bill should adhere to a rights-based framework in line with international recommendations, including the Istanbul Convention and the UN Committee on the Elimination of Discrimination Against Women. Such a framework would ensure a statutory right to services for all victims. We note that a similar rights-based approach has been taken by the Welsh Government in the Social Services and Well-being Wales Act.

49. Further to this and specifically in relation to the Minister's proposals for a new section, we believe the Bill should refer to 'children', rather than 'girls', because the direct and indirect impact of violence against women, domestic abuse and sexual violence is significant and lasting for children regardless of their gender. Any such reference should make clear that the relevant provisions in the Bill apply to children up to and including 16 years of age. We discuss matters affecting children further in Chapter 5.

50. Changes to the approach taken in the Bill in the way that we recommend would need to be reflected in its title. We prefer the wording used by the Welsh Government in its White Paper, which referred to 'Violence Against Women, Domestic Abuse and Sexual Violence'.

**We recommend that the Assembly agrees to the general principles of the Bill.**

**We recommend that the Minister amends the Bill in the following ways:**

- to provide for a rights-based framework to ensure a statutory right to services for victims;**
- to refer to Violence Against Women, rather than Gender-Based Violence. This should not preclude men accessing services but should ensure that services are tailored to the specific needs of men and women respectively;**

- to specifically refer to the direct and indirect impact that violence against women, domestic abuse and sexual violence has on children, regardless of their gender.

### 3. Education

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#### *Summary of evidence in this Chapter*

51. Respondents told us:

- education is the most crucial part of preventing gender-based violence and without the White Paper proposals the Bill cannot achieve its stated aims;
- the curriculum review is not enough to ensure change - the recommendations are not mandatory and the review cannot consider wider issues such as school champions and Estyn inspections; and
- current provision is not mandatory, and is patchy and inconsistent; one-off sessions for secondary school pupils on healthy relationships education are not adequate and the issue needs to be embedded in the curriculum from early years.

#### **Background**

52. The Welsh Government's [White Paper on legislation to end violence against women and domestic abuse](#) included proposals to ensure that education on 'healthy relationships' is delivered in all schools. It also proposed placing a duty on local authorities to identify a regional champion to promote a whole school approach for dealing with this issue in educational settings.

53. The White Paper stated:

"There was also overwhelming support from the Bill engagement events that we held across Wales, with both service users and providers asking for education and awareness to be tackled consistently and effectively across Wales.

"Most people said that this was their top priority and we agree that without a strong focus on prevention we will never address the problem."<sup>28</sup>

54. Responses to the White Paper welcomed the education proposals and highlighted the importance of maintaining a universal approach to

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<sup>28</sup> White Paper, [Consultation on Legislation to End Violence against Women, Domestic Abuse and Sexual Violence](#), 2012, paragraph 35

education, which is consistent across different settings and to different ages.

55. This proposal has not been included in the Bill. ‘Healthy relationships’ education is now being considered as part of the [curriculum review](#) led by Professor Graham Donaldson, which will include a review of the basic curriculum including Personal and Social Education (PSE).

56. The Explanatory Memorandum states that the review “provides an important opportunity to consider the place of PSE, including healthy relationships, in the new curriculum for Wales as a whole”.<sup>29</sup>

### ***Evidence from respondents***

57. We received a considerable amount of evidence expressing concern at the lack of provision for healthy relationships education in the Bill.

58. The Children’s Commissioner stated that he expected the Welsh Government:

“... to set out provisions in this Bill that provide children and young people with a comprehensive and robust framework for healthy relationships education to be included within the education curriculum, and to view the recommendations of the Education in Wales Review as opportunities to add value to such a framework.”<sup>30</sup>

59. Barnardo’s Cymru told us it was “disappointed” that a comprehensive programme of education and prevention in education settings and in the community was absent from the Bill.<sup>31</sup>

60. Professor Emma Renold said that she was “puzzled and concerned that proposals in the White Paper to ensure that education addressing inter-personal violence and safe relationships via a mandatory whole-school approach is delivered to all children and young people, is notably absent from this Bill”.<sup>32</sup>

61. She went on to say:

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<sup>29</sup> [Explanatory Memorandum](#), paragraph 58

<sup>30</sup> Written evidence, GBV60

<sup>31</sup> Written evidence, GBV12

<sup>32</sup> Written evidence, GBV21

“This absence is all the more urgent and concerning in light of recent research findings that pre-teen children (age 10-12) growing up in Wales report increasingly compulsory boyfriend-girlfriend cultures in which gender-based forms of conflict, coercion and control are seen by children as an inevitable component of young relationships and common place.”<sup>33</sup>

62. The NSPCC Cymru believed that “it is going to be very difficult to deliver on the strategic and generational aims of this piece of legislation unless that question of education is actually contained within this Bill”.<sup>34</sup>

63. The Welsh Refugee Council echoed that “it is a huge disappointment that there is a serious lack of commitment to the role of prevention education within the legislation”.<sup>35</sup>

64. Children Are Unbeatable told us that “without a change in the law any educational programmes or initiatives to promote healthy relationships, reduce tolerance of abuse and interpersonal violence will be seriously undermined”.<sup>36</sup>

65. Children in Wales’s evidence noted that the education proposals from the White Paper should be included in the duty to produce local strategies. Barnardo’s considered that “reneging on [the healthy relationships education proposal] is a serious backward step for the preventative agenda of the Bill in its entirety”.<sup>37</sup>

66. We heard from the Church in Wales that:

“PSE is not the only place in which attitudes to relationships, domestic and sexual abuse, potential targets of ‘hate crime’, personal abuse or bullying should be tackled. Unhelpful stereotypes and attitudes can be encountered and should be challenged in all areas of the curriculum – such as art, literature, current affairs, media, sport, history, overseas development, religious studies.

“Consigning the issue to PSE and consideration under a separate review fails to achieve the wider impact hoped for in

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<sup>33</sup> Written evidence, GBV21

<sup>34</sup> RoP, paragraph 33, 17 September 2014

<sup>35</sup> Written evidence, GBV49

<sup>36</sup> Written evidence, GBV68

<sup>37</sup> Written evidence, GBV12



our earlier response [to the White Paper], which could have brought about more thorough attitudinal change.”<sup>38</sup>

67. However, the WLGA did not support the inclusion of education provisions in the Bill, saying that “the curriculum review can help to deliver the outcomes”. The WLGA said it was “concerned that [making such provision in the Bill] might reduce flexibility, because it is not (...) easy to change legislation”.<sup>39</sup>

68. It also noted that there are many existing champions in local authorities, and that such arrangements are not underpinned by legislation.

69. We heard from a number of witnesses about the need for a “whole school approach” to violence against women and domestic abuse to be included on the face of the Bill. In summary, respondents told us that such an approach would involve:

- one fully-trained ‘go-to’ staff member in each school with expertise in violence against women and girls and the knowledge and confidence to assist pupils in seeking assistance and information;
- the mandatory inclusion of education on violence against women and girls and healthy relationships on the school curriculum in Wales;
- ensuring that schools regularly collect data on all forms of violence against women and girls, including sexual harassment and bullying;
- ensuring that education on violence against women and girls and healthy relationships is available to children and young people not engaged in formal education system or ‘NEETS’;
- appointing a violence against women and girls champion amongst school governors and the student council;
- ensuring that Estyn inspects on school responses to violence against women and girls; and
- ensuring provision of comprehensive training for all related professionals.

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<sup>38</sup> Written evidence, GBV43

<sup>39</sup> RoP, paragraph 389, 1 October 2014

### ***Evidence from the Minister***

70. We heard from the original Member in charge of the Bill, Lesley Griffiths AM, that she did “not believe that not including education proposals on the face of the Bill will limit its scope to deliver our aims in respect of prevention”.<sup>40</sup> However, she did “recognise that there are concerns regarding the omission of the education proposals”.<sup>41</sup>

71. More recently, the Minister told us that the Welsh Government is “already taking forward a number of the proposals in the White Paper. There are proposals, for example, for an Estyn thematic inspection of issues around healthy relationships. There are other proposals that we have looked at that do not require legislation and can be acted on.”<sup>42</sup>

72. He went on to say that he had not yet discussed this issue with the Minister for Education, but acknowledged the body of evidence presented to the Committee.<sup>43</sup>

### ***Our view***

73. The most significant omission from the Bill is the education proposals for healthy relationships contained in the White Paper.

74. Without this critical component, it is difficult to see how much-needed attitudinal change can be delivered to an extent that is sufficient to have a long-term impact on levels of violence against women, domestic abuse and sexual violence.

75. We agree with the [United Nations Handbook for legislation on violence against women](#) that one of the most effective entry points to challenge discriminatory attitudes about gender equality and violence against women is the education system. Whole-school education programmes can contribute to less acceptance of violence and gender stereotyping; less victim-blaming; and an understanding of the importance of healthy relationships.

76. We acknowledge that “healthy relationships” education is currently being considered as part of the curriculum review being led by Professor Graham Donaldson. Nevertheless, we feel strongly that

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<sup>40</sup> RoP, paragraph 17, 17 September 2014

<sup>41</sup> RoP, paragraph 16, 17 September 2014

<sup>42</sup> RoP, paragraph 21, 1 October 2014

<sup>43</sup> RoP, paragraph 21, 1 October 2014

this Bill should make specific provision in relation to education in order to deliver its prevention objective.

**We recommend the Minister amends the Bill to make provision for compulsory, whole-school, age-appropriate education programmes on healthy relationships.**

77. In making this recommendation, we draw the Minister's attention to the evidence we received about the elements to be included as part of a whole-school approach, summarised in paragraph 69.

## 4. Children and Young People

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### *Summary of evidence in this Chapter*

78. Respondents told us:

- there should be a reference in the Bill to the United Nations Convention on the Rights of the Child (UNCRC) to ensure due regard is paid to children's needs;
- the defence of reasonable punishment of children should be removed, and the Bill is an appropriate place for this provision as there are currently inconsistent messages about violence for children and parents; and
- some respondents were concerned that including provision in relation to the defence of reasonable punishment of children would detract from the primary purpose of the Bill.

### **Rights of children and young people**

#### *Evidence from respondents*

79. We received evidence from a number of respondents about the lack of representation within the Bill of children and young people, and specifically of children's rights.

80. Barnardo's Cymru told us its "main concern is that the experience of children and young people are marginalised within the Bill".<sup>44</sup> It stated:

"... the lack of synergy between legislation and policy to address domestic violence, and legislation and policy to address child protection has, historically, been a significant barrier to addressing ... family and intimate relationship problems effectively. The wording of this legislation does nothing to address this dichotomy."<sup>45</sup>

81. The Wales Observatory on Human Rights of Children and Young People told us that research undertaken in preparation for the Bill

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<sup>44</sup> Written evidence, GBV12

<sup>45</sup> Written evidence, GBV12

“appears to have been confined to the needs of adult victims of gender violence, domestic violence and sexual violence”.<sup>46</sup> It went on to say:

“Little investigation appears to have been carried out in relation to the needs of children in Wales, even though we know the impact on children is very significant, with negative developmental and long-lasting effects.”<sup>47</sup>

82. It concluded:

“... the Bill is lacking in the kind of provision that might be expected from a proper analysis of the evidence combined with analysis of the requirements of the UNCRC.”<sup>48</sup>

83. Other respondents also made reference to the UNCRC, telling us that the Bill does not make provision for children as rights bearers and arguing that a specific reference in the Bill, and supporting guidance, to the UNCRC was needed in order to address this. The Children’s Commissioner stated that the omission of any reference to the UNCRC “may result in the specific needs and vulnerabilities of children and young people being overlooked”.<sup>49</sup>

84. In making a similar point, Barnardo’s Cymru referred to the provision in the Social Services and Well-being (Wales) Act which requires persons exercising functions under the Act to have “due regard” to Part 1 of the UNCRC. Barnardo’s told us that the Bill would be “considerably strengthened” if such provision were included on its face.<sup>50</sup> NSPCC Cymru/Wales were of the same view.<sup>51</sup>

85. Children in Wales stated that a reference to the Convention on the face of the Bill would “give a clear message about the importance of the UNCRC in conjunction with the *Children and Young Persons (Wales) Measure 2011*”.<sup>52</sup>

86. Linked to this, the Wales Observatory on Human Rights of Children and Young People suggested that the Children’s Rights Impact Assessment carried out on the Bill “lacks adequate appreciation

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<sup>46</sup> Written evidence, GBV34

<sup>47</sup> Written evidence, GBV34

<sup>48</sup> Written evidence, GBV34

<sup>49</sup> Written evidence, GBV60

<sup>50</sup> Written evidence, GBV12

<sup>51</sup> Written evidence, GBV23

<sup>52</sup> Written evidence, GBV47

of the requirements of the UNCRC, especially with regard to child protection and rehabilitative support”.<sup>53</sup>

87. Respondents also highlighted the importance of national and local strategies taking account of the needs of children and young people. On this point, the Children’s Commissioner told us that the omission of the UNCRC from the Bill “may result in the specific needs and vulnerabilities of children and young people not being taken into account in the development of strategies and services”.<sup>54</sup>

88. In addition to evidence about the UNCRC, some respondents, including the Children’s Commissioner and BBC Children in Need, told us that the Bill does not go far enough in providing for children and young people who are indirectly exposed to gender-based violence, domestic abuse and sexual violence, for example, by witnessing a family member being abused.<sup>55</sup>

### ***Our view***

89. We believe that, as drafted, the Bill does not adequately provide for the specific needs and vulnerabilities of children and young people who are at risk of, or are victims of, domestic abuse.

90. We acknowledge that the Rights of Children and Young Persons (Wales) Measure 2011 places duties on Welsh Ministers to have due regard to the requirements of Part 1 of the UNCRC. However, we believe the Bill would be strengthened by the inclusion of a direct reference to the UNCRC on its face. This would ensure that all relevant authorities complying with duties under the Bill have regard to the rights of children and young people.

**We recommend the Minister amends the Bill to make specific reference to the UN Convention on the Rights of the Child, to ensure that authorities have regard to this in complying with their duties under the Bill.**

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<sup>53</sup> Written evidence, GBV34

<sup>54</sup> Written evidence, GBV60

<sup>55</sup> Written evidence, GBV60 & GBV32

## Reasonable punishment of children

### *Background*

91. Common Law has traditionally recognised a defence of “reasonable punishment” to certain offences of assault.

92. Section 58 of the [Children Act 2004](#) (which applies to England and Wales) limits the use of the defence of reasonable punishment so that it can no longer be used when a defendant is charged with the following offences against a child:

- wounding and causing grievous bodily harm;
- assault occasioning actual bodily harm; and
- cruelty to a person under the age of sixteen.

93. The defence can still be used where (i) the defendant is charged with common assault or battery and the injury suffered by the victim is deemed to be no more than “reddening of the skin” and “transient and trifling”,<sup>56</sup> (ii) the victim is a child (under the age of eighteen) and (iii) the defendant is the parent of the child or a person who has lawful care of the child.<sup>57</sup>

### *Evidence from respondents*

94. The Bill as introduced does not make provision in relation to the defence of reasonable punishment of a child and, as such, our consultation did not invite evidence on this. However, more than a third of the responses we received called for a “ban on smacking” in Wales. The remaining responses were silent on this matter.

95. There was general consensus among those respondents who commented on this matter that failure to include provision to remove the defence was a missed opportunity that could ultimately undermine the Bill’s intention.

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<sup>56</sup> Crown Prosecution Service, [Guidance on Prosecuting Cases of Domestic Violence](#)

<sup>57</sup> It should be noted that the law has developed in this area in recent years. Certain categories of individuals who have lawful care of a child are no longer entitled to the benefit of the defence. These individuals include foster carers, workers in children’s homes and teachers (this list is not exhaustive).

96. On this issue, Children in Wales suggested that the retention of the defence of reasonable punishment “weakens” the Bill’s intention and “endangers” its successful implementation.<sup>58</sup>

97. Similarly, the Wales Observatory on Human Rights of Children and Young stated:

“While there remains lesser protection for children than adults under the criminal law, attempts to ensure consistency of approach in both prevention and protection from violence and abuse are undermined.”<sup>59</sup>

98. It went on to state that the inclusion in the Bill of provision to remove the defence of reasonable punishment would “remove an impediment to its effective implementation in practice”.<sup>60</sup>

99. Children are Unbeatable (CAU) stated that the Bill’s failure to include provision to remove the defence was a “key omission”. It suggested that the prohibition and elimination of physical punishment of children was a “primary preventative measure” for combating domestic abuse and inter-personal violence.<sup>61</sup> It stated:

“Without addressing the issue of inequality in protection from assault that currently exists and going to the root of the problem, Wales cannot hope to tackle domestic abuse, gender-based violence and sexual violence effectively.”<sup>62</sup>

100. The Children’s Commissioner made a similar point, stating:

“There is significant evidence which points to the ‘reasonable punishment’ or smacking of children leading to an escalation of violence against children and young people and that smacking, as an act of violence however light, should be considered as domestic abuse.”

101. He highlighted evidence that he had given in 2013 to the Assembly’s Health and Social Services Committee in which he said that

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<sup>58</sup> Written evidence, GBV47

<sup>59</sup> Written evidence, GBV34

<sup>60</sup> Written evidence, GBV34

<sup>61</sup> Written evidence, GBV68

<sup>62</sup> Written evidence, GBV68



the “Welsh Government should take the earliest legislative opportunity to prohibit the smacking of children in Wales.”<sup>63</sup>

102. One of the central arguments put forward for the removal of the defence of reasonable punishment was that protection from assault was a universal human right that should apply to all persons, regardless of age. More specifically, respondents believed it was essential for the Welsh Government to remove the defence in order to fulfil its commitment to the United Nations Convention on the Rights of the Child (UNCRC), in particular Article 19 (Protection from all forms of violence). They reported that there was continuing pressure on the UK and Welsh Governments from international human rights bodies to address this issue.

103. In commenting on the above issue, CAU stated:

“Removing the defence, and thus giving children equal protection under the law on assault is an immediate obligation under the UNCRC and other human rights instruments accepted by the UK Government. Removal has been recommended repeatedly to the UK Government by UN human rights monitoring bodies.

“The vulnerability of children makes it even more vital that the law protects them, making the existing anomaly of giving them less legal protection both disturbing and absurd.”<sup>64</sup>

104. NSPCC Cymru suggested that the Rights of Children and Young Persons (Wales) Measure 2011 “places an obligation on the Welsh Government to close the rights violation represented by the defence (...) at the earliest opportunity”. It believed that the Bill provided an opportunity to do this.<sup>65</sup>

105. A number of respondents highlighted that both the Welsh Government and the Assembly had, for over a decade, committed to removing the defence of reasonable punishment. On this issue, CAU stated:

“The clear promise was made to the UN Committee on the Rights of the Child that this would happen in Wales (...) It is also a clear

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<sup>63</sup> Written evidence, GBV60

<sup>64</sup> Written evidence, GBV68

<sup>65</sup> Written evidence, GBV23

promise to children and young people in Wales, which is included in the Welsh Government's 'Getting it Right' action plan from 2009. So, any argument that it is not in the manifesto and that the Welsh Government does not have the mandate for it, is extraordinary."<sup>66</sup>

106. Linked to the above, Play Wales, the Wales Observatory on Human Rights of Children and Young People and others referred to the comments made by the then Deputy Minister for Social Services. In response to the debate on an amendment to the Social Services and Well-being (Wales) Bill to remove the defence, the Deputy Minister stated "there will be other legislative opportunities in the future that will be more appropriate for effecting a ban on the physical punishment of children", and that "there will be opportunities to examine this issue in forthcoming legislation in this Assembly".<sup>67</sup>

107. Other arguments put forward for removing the defence included:

- the negative health effects of physical punishment in children, including heightened aggression, anxiety and depression;
- the likelihood of reasonable punishment (or smacking) of children leading to an escalation of violence against children and young people;
- the link between physical punishment in childhood and the perpetration of violence against partners in later life;
- the confusing messages parents are currently receiving about the legitimacy of hurting their children;
- the opportunity it would provide to enable professionals working with families to deliver clear messages that hitting and hurting children is wrong.

108. While supporting the principle of removing the defence, some respondents questioned whether the Bill was the most appropriate mechanism through which to achieve this aim. They raised concern that including provision to remove the defence would detract from the primary purpose of the Bill.

109. Llamau believed it was important not to regard the Bill as an opportunity to "solve all ills". It emphasised the need for "clarity of

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<sup>66</sup> RoP, paragraph 70, 17 September 2014

<sup>67</sup> Record of Proceedings, Plenary, [11 February 2014](#)

purpose” and raised concern that, if the Bill was to include provision for the removal of the defence, it could “take it off on a tangent” and “dilute the message”.<sup>68</sup>

110. The Survivor’s Trust Wales questioned whether the issue of the removal of the defence “would be given justice within this Bill” if it was to be included at a later stage.<sup>69</sup> It elaborated:

“To both strengthen the understanding within our communities and the understanding of the parents that do smack their children that they need to stop, we need to give this the force that it needs. I do not think that you would do either justice by [including it in the Bill]”.<sup>70</sup>

111. Similarly, Safer Wales believed that any proposal to remove the defence through the Bill “needs full consideration and exploration by all parties and consultation again”. It raised concern that this would “create a delay when it will not necessarily give an advantage, because it may need to be looked at separately in its own right within safeguarding”.<sup>71</sup>

### ***Evidence from the Minister***

112. The Minister told us that the Welsh Government did not believe that the Bill was an appropriate vehicle by which to amend the 2004 Act to remove the defence of reasonable punishment. He stated:

“The Bill focuses on gender-based violence, domestic abuse and sexual violence. We would not consider that ‘reasonable chastisement’ falls into these categories.”<sup>72</sup>

113. When asked whether there would be another legislative opportunity within the current Assembly to remove the defence, the Minister stated that “the Government has never given a commitment to make that change”,<sup>73</sup> and that “[it does] not have a manifesto commitment in this area”.<sup>74</sup> He went on to state that the Welsh

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<sup>68</sup> RoP, paragraphs 229 & 235, 25 September 2014

<sup>69</sup> RoP, paragraph 230, 25 September 2014

<sup>70</sup> RoP, paragraph 230, 25 September 2014

<sup>71</sup> RoP, paragraph 231, 25 September 2014

<sup>72</sup> RoP, paragraph 46, 1 October 2014

<sup>73</sup> RoP, paragraph 39, 1 October 2014

<sup>74</sup> RoP, paragraph 41, 1 October 2014

Government “regard this as an issue more appropriate to manifestos in the election in 2016”.<sup>75</sup>

114. In relation to the [Rights of Children and Young Persons \(Wales\) Measure 2011](#), the Minister said that the Government had “carried out its obligation” to have regard to the UNCRC in the development of legislation.<sup>76</sup>

### ***Our view***

115. We have considered this matter in detail and at length, and the majority of us (six Members) do not believe that the Bill should be amended to make provision removing the defence of the reasonable punishment of children.

116. A minority of us (four Members) do not share this view because we believe that the defence of reasonable punishment of children by their parents or certain other individuals who have lawful care of them constitutes a legal inconsistency. Although the defence can still be relied upon in cases of common assault or battery, it is no longer available in more serious cases of assault (listed in paragraph 92). Furthermore, a minority of us believe that the continuing availability of the defence weakens the principle that violence perpetrated by one person towards another is unacceptable, and undermines efforts to tackle violence and abuse in a domestic setting.

117. Whilst we note that the removal of this defence has been widely debated in the Assembly over a number of years, and previous Ministers have made their respective positions clear, we believe the Minister should take the opportunity to clarify the position of the current Welsh Government on this matter,

**We recommend that the Minister clarifies the Welsh Government’s policy position in relation to the removal of the defence of the reasonable punishment of a child.**

118. It is our view that any future Bill to change in the law in this area should be accompanied by an appropriate consultation and awareness-raising programme to ensure that the public has a full understanding of the changes, the reasons behind them and the impact of such changes for them.

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<sup>75</sup> RoP, paragraph 49, 1 October 2014

<sup>76</sup> RoP, paragraph 43, 1 October 2014

## 5. National and Local Strategies

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### *Summary of evidence in this Chapter*

119. Respondents told us:

- the national strategy needs to improve on the current *Right to be Safe* strategy, rather than just enshrine current policy;
- there should be a duty to consult with the police, service providers and victims in the design and implementation of the strategies;
- the national strategy should set out minimum standards for the local strategies to ensure consistency; and
- they are concerned that national strategies and local strategies will be produced separately, which could lead to duplication of effort and data.

### **Background**

120. Sections 2 and 3 of the Bill make provision for Welsh Ministers to prepare, publish, review and implement a national strategy, which specifies objectives, timescales and proposed actions that will contribute to the purpose of the Bill.

121. Sections 4 and 5 of the Bill make provision requiring local authorities and health boards to jointly prepare, publish and review local strategies, which specify objectives, timescales and proposed actions that will contribute to achieving the purpose of the Bill.

122. A local strategy may also require any public authority, voluntary organisation or other person whose activities are capable of contributing to the purpose of the Bill to take specific action, subject to prior approval from the organisation.

123. The Welsh Government's [Right to be Safe](#) 6-year strategy for all forms of violence against women and domestic abuse was introduced in 2010.

### **Evidence from respondents**

124. A number of respondents referred to the statutory *Right to be Safe* strategy, arguing that any new national strategy should be

prepared in the context of this existing one. They called for clarity on the standing of existing strategies.

125. Respondents also highlighted shortcomings in the *Right to be Safe* strategy, saying it was “vital that Welsh Government build upon, rather than re-invent, the current national strategy”.<sup>77</sup>

126. Respondents, including New Pathways and the Violence Against Women Action Group, told us that the existing strategy had a “lack of measurable outcomes”<sup>78</sup>. New Pathways suggested that “consideration be given to either separate strategies for the different forms of violence, or at least an allowance for individual emphasis to be placed on the different forms of violence.”<sup>79</sup>

127. ManKind told us that the national and local strategies should “fully recognise male victims of domestic abuse and sexual violence and that the strategies [should] explicitly address the needs of male victims. This also includes service commissioning, staff training and awareness raising”.<sup>80</sup> It suggested the option of a parallel sub-strategy for female and male victims to ensure that the strategies “recognise the existence of male victims and their children and treat them as individuals in need in the same way female victims rightly are”.<sup>81</sup>

128. Respondents also highlighted the importance of the national strategy setting out minimum standards for the local strategies to ensure consistency. On this point, the Children’s Commissioner stated:

“I would expect Welsh Government to set out within the provisions of this Bill a minimum schedule of content that is required within the publication of national and local strategies.”<sup>82</sup>

129. The Survivor’s Trust Wales supported the call for a minimum standard, saying that such a standard should come “from a victim’s perspective and a victim’s rights point of view”.<sup>83</sup>

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<sup>77</sup> Written evidence, GBV64

<sup>78</sup> Written evidence, GBV64

<sup>79</sup> Written evidence, GBV64

<sup>80</sup> Written evidence, GBV14

<sup>81</sup> Written evidence, GBV14

<sup>82</sup> Written evidence, GBV60

<sup>83</sup> RoP, paragraph 283, 25 September 2014

130. We heard evidence calling for the police, victims and service providers to be involved in the consultation, design and implementation of the strategies. On this point, New Pathways told us:

“...successful implementation of this Bill will require collaboration and consultation with the third sector, who currently undertake most of the service provision in this field.”<sup>84</sup>

131. The Survivor’s Trust Wales said that, specifically with regard to sexual violence:

“...the majority of the work happens in the third sector, as it does for the other areas covered within this Bill. So, there has to be a duty for consultation with the third sector in these strategies to bring them to life.”<sup>85</sup>

132. We heard from the Children’s Commissioner for Wales and Barnardo’s Cymru about the importance of the Bill making specific provision to ensure that children and young people are able to participate in the development and design of local and national strategies and therefore contribute their views to the implementation of child protection and safeguarding procedures.<sup>86</sup>

133. Some respondents highlighted the need for the relationship between the national and local strategies to be clear in order to avoid “duplication of effort”. On this point, Professor Jonathan Shepherd told us:

“It is not clear, for example, whether local strategies need to be consistent with the new national strategy. As drafted, the bill refers to local strategy setting “having regard” to the national strategy; such a statement seems unlikely to be strong enough.”<sup>87</sup>

134. He suggested that local strategies may not be necessary; instead there could be a duty to implement the national strategy.

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<sup>84</sup> Written evidence, GBV64

<sup>85</sup> RoP, paragraph 311, 25 September 2014

<sup>86</sup> Written evidence, GBV60 and GBV12

<sup>87</sup> Written evidence, GBV03

135. Professor Shepherd said “there needs to be really strong oversight of the development of local strategies to make sure that they do not vary from the national ways forward”.<sup>88</sup>

136. He went on to say that any variations in the local strategies should be on “the basis of consultation and quality checks that what is being added or subtracted locally is consistent with the evidence and fully consistent with the specific strategy”.<sup>89</sup>

137. A number of respondents, including Llamau and Professor Shepherd, referred to the need for the national strategy to focus on and refer to specific evidence-based interventions. On this point, Llamau said:

“The process of gathering evidence and assessing needs on a national and a local basis will be fundamental to whether the relevant authorities covered under this legislation are able to make a real change to the way that they work to combat this issue.”<sup>90</sup>

138. We also had evidence from a number of respondents about the need for local strategies to ensure consistency of service delivery, but also take into account local needs. On this point, New Pathways said:

“Having a national strategy without local strategies would not take into account local need and local differences, which we all acknowledge are there.”<sup>91</sup>

139. Some respondents advocated the appointment of a lead officer with responsibility for the delivery of the strategies. North Wales Domestic Abuse and Sexual Violence Co-ordinators stated:

“Consideration should be given to who will determine the content of these strategies and who the lead agency will be (...) Currently much of this work is carried out by existing DA Co-ordinators. Continuing to work in this way would be cost effective and would avoid the need for recruitment of new/additional staff.”<sup>92</sup>

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<sup>88</sup> RoP, paragraph 276, 17 September 2014

<sup>89</sup> RoP, paragraph 276, 17 September 2014

<sup>90</sup> Written evidence, GBV45

<sup>91</sup> RoP, paragraph 437, 1 Oct 2014

<sup>92</sup> Written evidence, GBV27



140. On this issue, Llamau said “the placement of a local strategy within the Single Integrated Planning Process raises additional questions around who has ownership of a local strategy and who would be ultimately responsible for the delivery of the strategy”.<sup>93</sup>

### ***Evidence from the Minister***

141. The Minister confirmed that the national strategy would build on the existing *Right to be Safe* strategy, and that there would be “opportunities within that to ensure that the local strategies developed subsequently are compatible with, build on, and supplement the national strategy”.<sup>94</sup>

142. He said he would have “some minimum expectations (...) of what a local strategy might include” and that such expectations would “need to be conveyed to those involved in the drafting of local strategies early on.”<sup>95</sup> He told us:

“If we felt that the strategy did not conform with the way that we believe that that strategy should be taken forward, then we would have a role in making that clear to those drawing up the strategy.”<sup>96</sup>

143. He went on to say:

“... in drawing up their own local strategies, [authorities] must have due regard to the national strategy. The ministerial adviser, of course, will have a very key role, potentially, in also ensuring that those local strategies are appropriate.”<sup>97</sup>

144. On the issue of consultation, the Minister said:

“... the local strategy will need to be agreed by a number of different agencies, and it would be sensible, of course, for local authorities and local health boards to talk together, but they will also need to talk to organisations such as the police and others.”<sup>98</sup>

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<sup>93</sup> Written evidence, GBV45

<sup>94</sup> RoP, paragraph 80, 1 October 2014

<sup>95</sup> RoP, paragraph 91, 1 October 2014

<sup>96</sup> RoP, paragraph 91, 1 October 2014

<sup>97</sup> RoP, paragraph 99, 1 October 2014

<sup>98</sup> RoP, paragraph 105, 1 October 2014

## *Our view*

145. We support the move to provide for statutory national and local strategies, and we believe this will serve to strengthen existing arrangements.

146. We agree with respondents that, in order to avoid duplication between the national and local strategies, there needs to be clear distinction between the strategies. We also agree that there is a need for minimum standards to be provided for to ensure consistency of service delivery.

147. In our view, there is a need for greater clarity about the accountability arrangements for local strategies, including the role of the Ministerial Adviser in overseeing the delivery of local strategies.

148. We believe the Bill would be strengthened by a duty on the Welsh Ministers and local authorities to consult service providers, the police and victims in drawing up national and local strategies.

149. We also believe the Bill would be strengthened by the inclusion of a provision for a lead officer within each local authority who would be responsible for ensuring delivery of the local strategy.

**We recommend that the Minister amends the Bill to provide for:**

- the national strategy to include a set of minimum requirements for the design, implementation and monitoring of local strategies;**
- a duty on Welsh Ministers and local authorities to consult with service providers, the police, victims and any other relevant groups in the design of the national and local strategies; and**
- a lead officer within each local authority with the responsibility for ensuring delivery of the local strategy.**

## 6. Performance measures and guidance

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### *Summary of evidence in this Chapter*

150. Respondents told us:

- they are concerned about the ‘opt-out clause’ in section 14, and want clarity on what would be a ‘good reason’ not to follow the guidance;
- they supported the introduction of performance indicators as this was a primary criticism of the *Right to be Safe* strategy; and
- they supported the National Training Framework (outlined in guidance but not on the face of the Bill), but there were suggestions that it should go further than public sector employees to include service providers and contractors.

### **Background**

151. Section 8 requires the Welsh Ministers to publish performance indicators (“national indicators”) to measure progress towards the achievement of the purpose of the Bill. Before publishing the indicators, the Welsh Ministers must consult “such persons as they consider appropriate”.

152. Section 12 makes provision for the Welsh Ministers to issue guidance to a relevant authority on how that authority should exercise its functions with a view to contributing to the purpose of the Bill. This guidance may include steps to include awareness raising and training for the authority’s members and staff.

153. Sections 14 to 16 require relevant authorities to follow statutory guidance, unless the authority considers that there is good reason not to follow the guidance and it decides on an alternative policy (referred to as the ‘opt-out’ provision). In this situation, a policy statement must set out how the authority proposes that its alternative policy will operate and its reasons for adopting the alternative policy.

154. If the Welsh Ministers consider that the authority’s alternative policy is not likely to contribute to the purpose of the Bill, they may direct it to take appropriate action. The authority must comply with this direction.

## *Evidence from respondents*

### **National indicators**

155. There was broad support from respondents for the introduction of national indicators with a strong expectation that these should be developed through significant and meaningful consultation with stakeholders and service providers.

156. There was general consensus that the indicators should include outcomes for prevention, protection and provision of support, including that available for children and young people and from specialist gender-specific services.

157. In commenting on the proposal for national indicators, Welsh Women's Aid suggested that a more effective approach would be to develop a national outcomes framework, which would include outcomes for "prevention, for protection and for provision of support across every part of Wales".<sup>99</sup> It believed that, once the framework had been established, "the indicators should fall quite naturally [from it]".<sup>100</sup>

158. Welsh Women's Aid raised concern that some of the indicators outlined in the draft guidance "do not really show a very helpful way of creating positive change", and that the proposed indicators were "not expansive enough".<sup>101</sup>

159. NSPCC Cymru believed that "a robust outcomes framework will be fundamental to the achievement of the aims of the Bill" and emphasised the need for the indicators to be "underpinned by the UNCRC".<sup>102</sup>

160. In addition, it stated:

"We would also urge that the indicators and outcomes (...) align with other Outcomes Frameworks being developed by the Welsh Government, particularly under the Social Services and Wellbeing Act, the Together for Mental Health outcomes and

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<sup>99</sup> RoP, paragraph 100, 25 September 2014

<sup>100</sup> RoP, paragraph 129, 25 September

<sup>101</sup> RoP, paragraph 129, 25 September

<sup>102</sup> Written Evidence, GBV23

the joint Families First, Flying Start and Communities First outcomes.”<sup>103</sup>

161. Similar views were expressed by Barnardo’s Cymru.

### **Statutory guidance**

162. While few respondents commented on the provisions in relation to statutory guidance, a significant number provided detailed comments on the proposed content of the guidance, in particular the National Training Framework.

163. There was general recognition that the statutory guidance would be crucial in implementing the Bill’s main proposals.

164. A number of respondents, including the NSPCC and Children in Wales suggested that section 12 should be strengthened so as to prescribe the matters to be contained in guidance as opposed to leaving the content to the discretion of the Welsh Ministers.

165. Some respondents raised concerns about, or sought clarification on, the provision that would enable authorities to depart from the guidance, in particular the circumstances under which it could be applied. In commenting on this provision, the NSPCC stated that “[it] seems to run against the general tenor of the legislation, which is about promoting a coherent and consistent approach at a local and national level”.<sup>104</sup>

166. Hafan Cymru raised concerns that authorities would be able to “opt-out of providing certain services”.<sup>105</sup> It stated:

“We are concerned that this is likely to result in the continuation of a postcode lottery for services across Wales, further enshrining the current inadequate provision, and would also impact negatively on the provision of gender specific services, resulting in generic and non-specialist services being disproportionately developed across Wales.”<sup>106</sup>

167. Linked to the above, Bawso raised specific concerns about the implications of the opt-out provision for women fleeing domestic

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<sup>103</sup> Written evidence, GBV23

<sup>104</sup> RoP, paragraph 128, 17 September 2014

<sup>105</sup> Written evidence, GBV38

<sup>106</sup> Written evidence, GBV38

violence with no recourse to public funds. It reported that securing support from local authorities for these women was “always a challenge” and believed that the provision would serve to exacerbate this.<sup>107</sup>

168. The NSPCC suggested that the term “good reason”, if left undefined, would be open to a wide interpretation. This view was shared by Professor Jones who also suggested that this could give rise to legal challenge.

169. In contrast, the WLGA welcomed the provision and stated:

“Local authorities are best placed to understand local priorities and issues and how these can best be addressed locally which may not clearly fit with the approach [the Welsh Government is] proposing through the Statutory Guidance”.<sup>108</sup>

170. The WLGA also emphasised the need to ensure that the process for approval of an alternative policy statement by the Welsh Ministers was “proportionate, speedy and non-bureaucratic”.<sup>109</sup>

171. There was widespread support for the proposal to address training within the statutory guidance. This training would be delivered through the National Training Framework. A consultation document containing the [draft National Training Framework](#) has been published alongside the Bill.

172. Several respondents suggested that training should be available to public service workers other than those set out in the draft National Training Framework. Other respondents emphasised the need for the National Training Framework to apply to specialist service providers.

173. In commenting on the above, NUS Wales suggested that “medical students, student nurses and student dentists should be trained to recognise signs of [violence against women] and how to respond appropriately”. It went on to suggest that third sector specialists; teachers, counsellors and school welfare staff; tutors and lecturers; and child minders should also receive training.<sup>110</sup>

174. On a similar note, Church in Wales stated:

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<sup>107</sup> Written evidence, GBV52

<sup>108</sup> Written evidence, GBV81

<sup>109</sup> Written evidence, GBV81

<sup>110</sup> Written evidence, GBV54

“It is of vital importance that non-statutory organisations and staff are given access to information and training in the same way as the statutory sector. Services are increasingly being contracted-out to the voluntary and even private sectors, and innovative services are typically introduced by the voluntary sector, usually funded by charitable trusts or other independent sources.”<sup>111</sup>

### ***Evidence from the Minister***

175. In commenting on the national indicators, the then Minister in charge, Lesley Griffiths AM, stated:

“[the indicators] will be used to measure progress in achieving the purposes of the Bill. They will enable us to measure the outcomes not only through the national strategy, but through the local strategies, too.

“The basis for this will be the current programme for government indicators that we have, which relate to gender-based violence, domestic abuse and sexual violence. They are now reviewed and updated on an annual basis. For instance, you could record the number of people who use the multi-agency risk assessment conference as an indicator, or the number of public sector bodies that have a workplace policy in place.”<sup>112</sup>

176. She confirmed that a wide range of organisations, including service providers, would be involved in the development of the indicators.

177. With reference to the “opt-out” provision, the Minister stated:

“[Relevant authorities] can only depart from the guidance if they are able to propose an alternative and if they have a very good reason not to follow it. For example, they might already have (...) an effective multi-agency structure in place and it would be counterproductive to dismantle that to adhere to our collaboration guidance, strictly. However, we would need to be

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<sup>111</sup> Witten evidence, GBV43

<sup>112</sup> RoP, paragraph 59, 17 July 2014

satisfied that the model would work before we would agree to it.”<sup>113</sup>

178. Finally, in relation to the National Training Framework, he confirmed he was willing to hear representations about making training available more widely than the public sector, and that he would consider any such representations received as part of the consultation on the draft guidance.<sup>114</sup>

### ***Our view***

179. We welcome the requirement in section 8 for the Welsh Ministers to consult appropriate persons on the national performance indicators. We believe it is essential for stakeholders, including service providers to be involved in the early stages of the design and development of the indicators. We draw the Minister’s attention to the suggestion in evidence for an outcomes framework to be developed taking into account other such frameworks used within the delivery of related policy areas.

180. We note that the White Paper proposed the imposition of duties on relevant bodies to contribute to multi-agency fora, develop information sharing protocols and a duty on key public sector professionals to “Ask-and-Act”. However, these proposals are now to be included in guidance that may be issued by the Welsh Ministers under the Bill.

181. While we welcome the draft guidance already provided by the Minister, we are concerned that awareness-raising was not included, and that there was a lack of clarity about the authorities to be covered.

182. Some respondents expressed concerns that section 14(2) could be used by local authorities to opt-out of providing services. Therefore, we seek assurances from the Minister that this provision is intended to preserve effective existing structures or to allow flexibility for local innovation.

183. We welcome the training framework. We agree with respondents that there is a need for quality and consistent training to give frontline professionals the confidence to ask about and act on incidences of abuse. Training should be available to both public sector and specialist

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<sup>113</sup> RoP, paragraph 133, 1 October 2014

<sup>114</sup> RoP, paragraph 137 & 139, 1 October 2014



service providers, and such an approach should contribute to the improvement of a consistent standard of service provision to victims.

**We recommend that the Minister ensures that the National Training Framework is available to specialist service providers as well as public sector staff.**

## 7. Ministerial Adviser

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### *Summary of evidence in this Chapter*

184. Respondents told us:

- there should be an independent adviser or commissioner, who is able to scrutinise the Welsh Government and local authorities;
- this role should have powers to sanction the Welsh Government and local authorities for not implementing national and local strategies;
- there could be an overlap of powers between the Anti-Slavery Co-ordinator and the Adviser; and
- they have concerns that the role is too broad and has too little resource to be effective.

### *Background*

185. Section 17 of the Bill places a duty on the Welsh Ministers to appoint a Ministerial Adviser on gender-based violence, domestic abuse and sexual violence. This is a statutory advisory role and the Ministerial Adviser will work alongside the Government to advise and assist the Welsh Ministers in tackling these issues. Section 18 outlines the functions of the Adviser.

186. In the White Paper, the Welsh Government proposed that the Adviser would have two levers at his or her disposal to underpin their authority and ensure adherence to the legislation, namely:

- the power to require information and conduct investigations against agreed quality standards;
- act as a key contributor to decisions taken on the use or allocation of funding/resources by providing information to Welsh Ministers (i.e providing performance information to inform future funding decisions).

### *Evidence from respondents*

187. We received a considerable amount of evidence calling for an independent adviser or commissioner with strengthened powers to scrutinise the Welsh government and local authorities. Professor Jackie

Jones said it is “absolutely crucial to have someone who is independent”.<sup>115</sup>

188. A significant number of respondents also drew comparisons with similar Welsh models for an independent adviser role, including the proposed Future Generations Commissioner, the Older People’s Commissioner and the Children’s Commissioner for Wales and felt that, by not appointing a commissioner, the Welsh Government was not placing a high enough priority on gender-based violence.

189. In particular, the National Federation of Women’s Institutes Wales said:

“... we fear that a Ministerial Adviser may not have the same impact as a Commissioner.”<sup>116</sup>

190. Whilst many respondents including Cardiff North Women's Forum, Bawso and Barnardo’s Cymru noted the higher costs associated with a Commissioner, they remained of the opinion that the work could only be driven “by an independent commissioner role, which can hold government and other Welsh institutions to account.”<sup>117</sup>

191. The WLGA generally supported the role of a Ministerial Adviser rather than a commissioner. It reiterated the need for the Adviser to be independent and to have the “ability and freedom to work across all relevant policy portfolios within Welsh Government and across public services” and said that the Bill should “be explicit about the independence of the Adviser post”.<sup>118</sup>

192. A number of respondents told us that the Ministerial Adviser role was too broad in reach and had too little resource to be effective.

193. On this point, Barnardo’s said that the adviser did not have enough powers “considering the seriousness of the issues that are expected to be addressed”.<sup>119</sup> Professor Shepherd agreed that a “limitation of the responsibilities of the advisor (...) seems very likely to reduce the potential effectiveness of this role.”<sup>120</sup>

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<sup>115</sup> RoP, paragraph 345, 17 September 2014

<sup>116</sup> Written evidence, GBV 25

<sup>117</sup> Written evidence, GBV 12

<sup>118</sup> Written evidence, GBV 81

<sup>119</sup> RoP, paragraph 101, 17 September 2014

<sup>120</sup> Written evidence, GBV03

194. A number of respondents, including Safer Wales, argued that the Ministerial Adviser role should have powers to sanction the Welsh Government and local authorities for not implementing national and local strategies. On this point, Hafan Cymru said:

“It is key that there is ‘teeth’ to this legislation and that sanctions need to be available to apply to those who do not comply with the law.”<sup>121</sup>

195. Concerns were also raised that there could be an overlap of powers between the Ministerial Adviser and other offices. The NSPCC felt that “it is for the Welsh Government to ensure that there is no duplication of powers and that those individual commissioners’ roles are clearly defined and are coterminous in terms of where their responsibilities stop and start”.<sup>122</sup>

### ***Evidence from the Minister***

196. We asked the Minister if he would consider further the need for the adviser to be independent of the Welsh Government. Responding to this, he said:

“I think that the adviser is an important role, and it is important that it is close to Government in the sense that we are looking for someone of substance, with expertise in the area who can make a real contribution to the development of the national strategy and obviously have oversight of the local strategies.”<sup>123</sup>

197. He said “the expectation is that the ministerial adviser would not be a civil servant”<sup>124</sup> and the role will be appointed under normal public appointment procedures.<sup>125</sup>

198. The Minister agreed to give further consideration in relation to the role having the power to sanction authorities and to conduct investigations. However, he commented that “at the present time, I think that we feel that the actual powers of sanction are powers that Ministers should hold”.<sup>126</sup>

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<sup>121</sup> Written evidence, GBV38

<sup>122</sup> RoP, paragraph 151, 17 September 2014

<sup>123</sup> RoP, paragraph 152, 1 October 2014

<sup>124</sup> RoP, paragraph 159, 1 October 2014

<sup>125</sup> RoP, paragraph 152, 1 October 2014

<sup>126</sup> RoP, paragraph 152, 1 October 2014

199. On the financial implications of a commissioner, the previous Member in charge of the Bill set out the costs associated with the creation of a commissioner in comparison with a Ministerial adviser:

“A commissioner would be expected to cost between just under £600,000 and £650,000 per annum (...) that is looking at (...) the children’s commissioner and the older people’s commissioner...

“The estimated cost of a ministerial adviser I would expect to be no more than £80,000, maybe going up to £100,000 at the very most. However, that person will be supported by the team that we have.”<sup>127</sup>

### ***Our view***

200. The role of the Ministerial adviser will be key in terms of providing strong leadership in delivering the aims of the Bill. In order to fulfil this role, any adviser to the Minister should be able to challenge and, where necessary, criticise the Welsh Government.

201. While we welcome the Minister’s assurance that the adviser will be appointed using standard public appointment procedures, we believe strongly that this role should be independent of government, supported by a non-civil service secretariat, and that the title of the role should reflect this arms-length position. We acknowledge that higher costs are likely to be associated with greater independence of the adviser role.

202. Further to this, we note that the White Paper proposed an Independent Adviser with a monitoring function and the power to conduct investigations. We think such powers are vital to the success of this role.

203. Finally, we are concerned about the potential for duplication of work with other roles, such as the Anti-Slavery Coordinator. We ask that the Minister provide some clarification on the responsibilities and powers of these respective roles.

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<sup>127</sup> RoP, paragraph 177, 17 July 2014

**We recommend that the Minister amends the Bill to:**

- provide for an adviser independent of government, supported by a secretariat drawn from outside the civil service;**
- change the title of the role to reflect this arms-length position;**
- give the adviser the power to monitor progress of delivery of local strategies and conduct investigations in cases where performance is unsatisfactory.**

## 8. Definitions

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### *Summary of evidence in this Chapter*

204. Respondents told us:

- the definitions in the Bill are critical as they will become standard understanding across the public sector;
- the current 'domestic abuse' definition is too wide to become meaningful in law;
- 'coercive control' should be included in the definition;
- the 'sexual violence' definition is confusing; and
- there could be confusion between devolved and non-devolved agencies if different definitions are used – for example, the Home Office definition of 'domestic violence' and 'abuse' includes coercive control.

### *Background*

205. Section 21 provides definitions of (among others):

- "abuse": physical, sexual, psychological, emotional or financial abuse;
- "domestic abuse": abuse where the victim of it is or has been associated with the abuser;
- "gender-based violence": (a) violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation; (b) female genital mutilation; (c) forcing a person (whether by physical force or coercion by threats or other psychological means) to enter into a religious or civil ceremony of marriage (whether or not legally binding);
- "sexual violence": sexual exploitation, sexual harassment, or threats of violence of a sexual nature.

### *Evidence from respondents*

206. A number of respondents commented that the definition of "gender-based violence" used in the Bill differs from the nationally and internationally agreed legal definition. On this point, Professor Jackie Jones stated:

“The definition focuses on some of the causes of gender-based violence, rather than on what happens when gender-based violence occurs. (...) The Bill should adopt the internationally recognized definition. In this way, it can still address the causes as well as the consequences of violence, fulfilling its original aim.”<sup>128</sup>

207. Professor Jones also argued that the definition of ‘abuse’ used in the Bill is “very narrow, is exclusive, rather than inclusive, leaving other pervasive acts of violence out of legal regulation”. She believed that, “at a minimum, ‘Coercive control’ should be included”.<sup>129</sup>

208. Professor Jones contended that the current “domestic abuse” definition “is far too wide to become meaningful in law”.<sup>130</sup> Other respondents also considered that the current definition is “exclusive” rather than “inclusive”.

209. The Wales Violence Against Women Action Group, along with many other witnesses, raised concerns about the definitions used in the Bill, particularly around the term “gender-based violence”, saying that “the current name is also disappointing as it is cumbersome, divisive and unclear”.<sup>131</sup>

210. It argued that:

“Currently in Wales, there exists a lack of clarity amongst agencies and the general public regarding what is meant by the term ‘violence against women and girls’, as well as exactly what specific forms of violence/abuse entail – particularly those forms of violence that are not so well-known as domestic abuse, in addition to the non-physical-violence aspects of domestic abuse.”<sup>132</sup>

211. Welsh Women’s Aid told us that the definitions used in this Bill were important to “ensure a targeted and consistent approach to addressing its aims” but were currently very broad and missing essential elements”.<sup>133</sup>

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<sup>128</sup> Written evidence, GBV06

<sup>129</sup> Written evidence, GBV06

<sup>130</sup> Written evidence, GBV06

<sup>131</sup> Written evidence, GBV89

<sup>132</sup> Written evidence, GBV89

<sup>133</sup> Written evidence, GBV88



212. Some respondents, including Cardiff North Women’s Forum, New Pathways and the WLGA, commented on the definition of “sexual violence”. Cardiff North Women’s Forum said that the definition “does not include reference to actual violence of a sexual nature. Whilst it includes Sexual Exploitation, this may be characterised by coercion without the use of violence.”<sup>134</sup>

213. Barnardo’s Cymru called for the inclusion of “grooming” and “coercion” to be included within the definition of “sexual violence”.<sup>135</sup>

214. Finally, we heard from respondents, including the WLGA, questioning whether the Bill provided for persons undergoing gender reassignment.

### ***Evidence from the Minister***

215. On a general point about the definitions used in the Bill, the Minister agreed that there was a “need for consistency in definitions, with those used more widely, including by the Home Office”.<sup>136</sup>

216. More specifically, and in relation to “coercive control”, he said this was captured within the definition of “abuse” “because the exercise of coercive control requires some form of physical, emotional, psychological or financial abuse”.<sup>137</sup>

217. He said he would review the explanatory notes of the Bill in order to confirm this, but that he would also review the evidence in respect of the definitions used in the Bill as it progresses to Stage 2.<sup>138</sup>

### ***Our view***

218. We note that the Welsh Government has created new definitions of gender-based violence, domestic abuse and sexual violence in the Bill, rather than adopting existing international or UK Government definitions.

219. We heard much evidence to support the use of the UN and Council of Europe definition of “violence against women”, and the UK Home Office definition of “domestic violence and abuse”. We believe

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<sup>134</sup> Written evidence, GBV16

<sup>135</sup> RoP, paragraph 153, 17 September 2014

<sup>136</sup> RoP, paragraph 185, 1 October 2014

<sup>137</sup> RoP, paragraph 185, 1 October 2014

<sup>138</sup> RoP, paragraph 185 & 187, 1 October 2014

that using these existing definitions would be more effective, as they are well established and widely understood within the sector.

220. We have some concerns about the definition of “sexual violence” used in the Bill. We draw the Minister’s attention to the evidence we have received on this matter.

**We recommend that the Minister amends the Bill to adopt:**

- the United Nations definition of ‘violence against women’,**
- the Home Office definition of ‘domestic violence and abuse’,**

**with appropriate adjustments to ensure that these definitions correspond with other definitions used in the Bill.**

**We recommend that the Minister gives further consideration to the definition of sexual violence in light of the evidence we have received.**

## 9. Financial implications

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### *Summary of evidence in this Chapter*

221. Respondents told us:

- there is likely to be an increase in demand for services if the Bill achieves its aims, particularly around the Ask and Act requirement;
- although funding is restricted, services could be better commissioned with better national guidance and stronger scrutiny; and
- the Bill could divert resources away from frontline services, particularly in local authorities.

### *Evidence from respondents*

222. Many respondents were concerned about the costs of the Bill and the impact on service provision.

223. The WLGA told us that the extra demand for services “does not appear to have been taken into account in the Explanatory Memorandum, in light of this the costs of the Bill might need to be revised”.<sup>139</sup>

224. The Violence Against Women Action Group said that it had concerns about the resources available to deliver the aims of the Bill consistently. It was not convinced that the national and local strategies outlined in the Bill were significantly different from those that exist currently and, as such, said it did not expect improvements in the commissioning of services across Wales.<sup>140</sup>

225. Its evidence also stated that, without extra resources, “we cannot expect every local authority to provide every specialist service locally, but neither can we expect from the current Bill that local authorities will work together to pool resources and provide specialist services on a more coordinated or regional level”.<sup>141</sup>

226. Welsh Women’s Aid had similar concerns, telling us that increases in reporting as a result of aspects of the Bill such as ‘Ask and Act’ and

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<sup>139</sup> Written evidence, GBV81

<sup>140</sup> Written evidence, GBV89

<sup>141</sup> Written evidence, GBV89

public sector training would “undoubtedly lead to increased pressure on these services without doing anything to address the geographical gaps in provision of services”.<sup>142</sup> Safer Wales and New Pathways made similar points.

227. Welsh Women’s Aid went on to argue that provision should be made within the Bill to address any increases in reporting to ensure protection and support of victims and specialist services, and to ensure an holistic approach to implementation.<sup>143</sup> Bawso echoed this view.

228. We heard from respondents, including Relate and Safer Wales, that one of the biggest challenges to third sector providers is the short-term nature of the funding available to them. We also heard that the Bill needed to ensure that existing resources were better used if additional resources were not going to be available.

### ***Evidence from the Minister***

229. Responding to our questions about the financial implications of the Bill and whether it would lead to savings in other budget areas, the Minister said:

“Clearly, there is a very important role within the national and local strategies for preventative work. Obviously, one hopes that preventative work ultimately leads to a reduction in the need for other services. However, we also know that preventative work sometimes can help to uncover previously undiscovered issues.

“I think that it is a judgment that we will have to make as we move forward. We have done the required regulatory impact assessment and the financial cost assessment within that. I think that these things are difficult to judge and, at this stage, I do not want to go further than we already have within the explanatory memorandum.”<sup>144</sup>

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<sup>142</sup> Written evidence, GBV88

<sup>143</sup> Written evidence, GBV88

<sup>144</sup> RoP, paragraph 189, 1 October 2014

230. He confirmed that the budget in this area had been “marginally” increased in advance of the Bill.<sup>145</sup>

231. We asked the Minister for information about the assessments he had made of the possibility of an increase in demand for services as a result of the implementation of the Bill. Responding to this, he said:

“I think that the evidence that we have is that we would expect, in the short term, that the ‘ask and act’ guidance might well prompt an increase in demand for specialist services, and we will expect to see local needs assessments and local strategies to take account of that as service provision is planned.

“We are therefore reviewing our current funding strategy to identify the most appropriate model going forward to support this. Clearly, there are already services in place, but we think that that guidance might lead to an increase in service use.”<sup>146</sup>

232. We also asked whether the implementation of the Bill might divert resources away from front-line services. On this point, the Minister told us he did not think this would be the case “if there is proper planning in terms of the strategies at the beginning”. He went on:

“What is important, I think, is that, in drawing up the strategies, people utilise the skills and expertise that exist locally, particularly from service users in drawing up those strategies.”<sup>147</sup>

### ***Our view***

233. The implementation of this Bill is likely to give rise to an increase in demand for services, certainly in the short to medium term.

234. While we note that the budget in this area has been increased “marginally”, we heard that budget reductions in other areas such as Supporting People and the revenue support grant, will adversely affect the ability of service providers to prevent, and protect victims of, gender-based violence, domestic abuse and sexual violence.

**We recommend that the Minister gives further consideration to the level of funding allocated to the implementation of the Bill.**

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<sup>145</sup> RoP, paragraph 191, 1 October 2014

<sup>146</sup> RoP, paragraph 196, 1 October 2014

<sup>147</sup> RoP, paragraph 203, 1 October 2014

235. As with the implementation of any new Bill, we believe it is vital that arrangements are in place to monitor its impact and effectiveness. We also believe it is important for arrangements to be made to monitor the financial commitment of implementing the Bill.

**We recommend that the Minister makes the necessary arrangements to monitor the impact and effectiveness of the Bill, including the resources allocated and any increase in demand for services as a result of its implementation.**

## Annexe 1: Written and Oral Evidence

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### Written evidence

236. All written evidence received as part of the consultation can be viewed in full at:

[www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=145](http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=145)

### Oral evidence

237. The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at:

[www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=1306](http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=1306)

17 July 2014	Organisation
Lesley Griffiths AM, Minister for Local Government and Government Business Lynne Schofield, Head of the Violence Against Women and Domestic Abuse Team Rhys Davies, Lawyer	Welsh Government
17 September 2014	
Des Mannion, National Head of Service	NSPCC Wales
Sara Reid, Co-ordinator	Children are Unbeatable! Cymru
Eleri Griffiths, Development and Training Officer	Children in Wales
Menna Thomas, Senior Research and Policy Officer	Barnardos Cymru
Professor Emma Renold	School of Social Sciences Cardiff University
Professor Jonathan Shepherd	Violence Research Group Cardiff University
Jackie Jones, Professor of Feminist Legal Studies, Bristol Law School, UWE Chair, Wales Assembly of Women President	European Women Lawyers Association

<b>25 September 2014</b>	
Eleri Butler, Chief Executive	Welsh Women's Aid
Mwenya Chimba, Director, Violence Against Women	BAWSO
Cathy Owens, Violence Against Women Action Group	Violence Against Women Action Group
Frances Beecher, Chief Executive Officer	Llamau
Bernie Bowen-Thomson, Deputy Chief Executive	Safer Wales
Gwilym Roberts, Chief Executive Officer	Relate Cymru
Johanna Robinson, Wales National Development Manager	The Survivor's Trust Wales
<b>1 October 2014</b>	
Leighton Andrews AM, Minister for Public Services Sarah Rhodes, Bill Manager Rhys Davies, Lawyer	Welsh Government
Simon Borja, Project Development Officer, Safer Wales Dyn Project	Safer Wales
Mark Brooks, Chairman	ManKind Initiative
Naomi Alleyne, Director, Social Services and Housing	Welsh Local Government Association
Jackie Stamp, Chief Executive	New Pathways
Detective Superintendent Lian Penhale	South Wales Police
Detective Inspector Bryan Heard	South Wales Police