



Ministry
of Justice

Rt Hon

Damian Green MP

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Dear Mr Calvert,

Serious Crime Bill: Updating the criminal law on child cruelty

I have seen the commentary on your website about the Government's proposal to update the offence of child cruelty as set out in clause 62 of the Serious Crime Bill which was published on 6 June 2014. I am writing to ensure that there is no misunderstanding about the impact of the changes we are making to the offence as provided for in section 1 of the Children and Young Persons Act 1933.

You may be aware that the charity, Action for Children, launched a campaign to change the law on child cruelty in April 2012. They argue that the current criminal law is not fit for purpose for several reasons, in particular that it does not cover emotional or psychological suffering or injury. I met with Action for Children and also held a roundtable discussion on this issue with other experts at the end of last year. It was clear that further work was needed in this area to ascertain whether there were any gaps in the criminal law.

I therefore asked my officials to engage with those with a particular interest, including a number of children's charities and organisations, the Crown Prosecution Service and representatives from the police and social workers, to gauge views on how the law was operating. I have been considering the outcome of this work over the last few months. Contrary to suggestions in some sections of the press, we are only bringing forward our current proposals after careful consideration of the implications.

Under section 1 of the 1933 Act it is already an offence to ill-treat a child in a way likely to cause unnecessary suffering or injury, including "mental derangement". Whilst I believe that this section is still effective and that the courts are able to interpret it appropriately, I have concluded that it would benefit from further clarity and updating.

Clause 62 of the Bill would make it absolutely clear that cruelty likely to result in physical or psychological suffering or injury is covered under section 1. The clause would also modernise the language of section 1, in particular by replacing the outdated term 'mental derangement'.

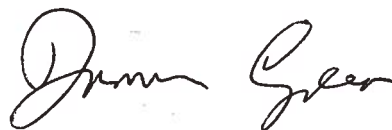
I am aware of concerns that the Government's proposed changes could criminalise parents for teaching their children particular religious tenets, for example, that same sex marriages are wrong. I would emphasise that the focus, as now, would be on targeting cruelty likely to cause physical or psychological suffering or injury. We are not proposing to extend criminal liability under section 1 more broadly. The offence already encompasses psychological harm; something that is explicitly recognised by the Crown Prosecution Service Legal Guidance and the Sentencing Council guidelines in relation to section 1 of the 1933 Act.

We fully expect that the reference to 'psychological suffering or injury' under clause 62 of the Bill would continue to be interpreted by the courts as it currently is. The courts have long held that such suffering or injury must be more than trivial (for example, a slight fright or low level mental anxiety). The Government's proposed clarification of the law should therefore not affect the way the law operates.

As with all Bills, the provision will be subject to debate in both Houses of Parliament before it could become law.

I am placing a copy of this letter on the Serious Crime Bill page of the Government website.

Yours sincerely,



Rt Hon Damian Green MP