

# Children (Equal Protection from Assault) (Scotland) Bill

## Page 2: About you

Are you responding as an individual or on behalf of an organisation?

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Academic with expertise in a relevant subject

Please select the category which best describes your organisation

*No Response*

Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

I am content for this response to be attributed to me or my organisation

Please insert your name or the name of your organisation. If you choose the first option above, this should be the name as you wish it to be published. If you choose the second or third option, a name is still required, but it will not be published.

Dr Stuart Waiton

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

## Page 7: Your views on the proposal

Q1. Which of the following best expresses your view of the proposal of giving children equal protection from assault by prohibiting all physical punishment of children?

Fully opposed

Q1. Which of the following best expresses your view of the proposal of giving children equal protection from assault by prohibiting all physical punishment of children?

**Please explain the reasons for your response**

The bill, in part, equates 'violence' against adults and children as equivalent. This is confused and goes some way to further undermine the important and civilised distinction between adults and children. This can be seen in the confused idea of children's rights which in essence has little to do with classical liberal ideas about rights as freedoms and is more about protection, by professionals and the state, than it is about rights for children. Children are not free, as adults are, and do not have rights.

The trend in social policy, is to question parental rights and to be suspicious of adults and their relationships with children; this proposal is another illustration of this trend to treat adults as potential 'risks' to their children. Indeed risk management has, as many social work related academics have noted, become an overwhelming dimension with child related policies and practices to the detriment of a more holistic approach to families.

Part of this problem of 'the child at risk' has come about with the development of the idea of children as vulnerable, not just a small minority of children but children more generally.

Once represented and understood as being vulnerable, helped by a therapeutic anxiety about trauma and the deterministic notion of being 'scared for life' there is an exaggerated fear constructed around families and parents relationships with their children. Consequently we have seen an intensified anxiety about the potential harm that parents can cause to their children and a growing desire for 'early intervention'. Here too, the idea of what harms a child has expanded exponentially in the past few decades and consequently smacking that would previously have been understood to be of little or no significance to a child's life and future has become re-presented as a form of abuse; a trend that can be seen in the expanding understanding of harm in terms of 'emotional abuse'. This relates to a wider sociological discussion started by Professor Frank Furedi about what he called the 'diminished subject' - a more fragile, helpless individual that dominates the imagination of policy makers in the twenty-first century.

Fundamentally, one does not have to agree with smacking to recognise that a highly important factor in a child and indeed in society's development, is the autonomy allowed to families and to parents to raise their children as they see fit. Society has limits in terms of cruelty, neglect and abuse, unfortunately this bill goes way beyond this understanding and is in essence an interference in family life that criminalises parents for actions that are neither cruel nor abusive.

The bill will further encourage the idea that parents need to be regulated and that they are a threat to their children, which outside of a tiny minority of cases is simply not true.

It will make parents increasingly confused and anxious about how they relate to and discipline their children.

It will further 'professionalise' parenting and undermine the spontaneous cultural development of parenting practices based on common, experiential norms.

It will add to the unhealthy political and cultural norm of blaming parents for wider social and structural problems.

It will help degrade trust between adults and between parents, further undermining spontaneous relationships and creating a framework where parents feel the need to look over their shoulder constantly to see who is watching them.

It will further promote the idea that parenting is best and often only done with the say so of professionals and parenting 'experts' who know best.

In Sweden a psychiatrist, David Eberhard, has written a book called 'When Children Took Power', which explains the disastrous impact of the anti-smacking laws in Sweden. This book echoes a number of useful arguments in Furedi's book 'Paranoid Parenting'. For a look at the issue of undermining parental autonomy and authority also see this paper which looks at the Named Person and which I add as part of my submission. <http://journals.sagepub.com/doi/abs/10.1177/2158244016629525>

Q2. Could the aims of the proposal be better delivered in another way (without a Bill in the Scottish Parliament)?

No

**Please explain the reasons for your response**

We need the opposite of this bill i.e. a political culture that recognises the importance of family autonomy and equally recognises the dangers of political and professional interference in the family. There is far too much policy and practice being developed that sees parenting and early childhood development as key to

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almost all social problems, this, in this author's opinion is an abdication of responsibility by politicians who need to broaden and deepen their understanding of how social problems develop.

Q3. What do you think would be the main advantages, if any, of giving children equal protection from assault by prohibiting all physical punishment of children?

None. Smacking is not assault. If it were that would mean my mother assaulted me, which she never did, indeed it would mean that most of us have been assaulted by our parents. Perhaps we can go back and have historical trials for all of these wicked parents!

Q4. What do you think would be the main disadvantages, if any, of giving children equal protection from assault by prohibiting all physical punishment of children?

This is proscribed parenting laid down by the state that undermines parental freedom and extends the reach of the state into people's private lives, as such it further helps to undermine privacy in society. The bill will further encourage the idea that parents need to be regulated and that they are a threat to their children, which outside of a tiny minority of cases is simply not true. It will encourage the idea that it is the state and paid professionals who are the true carers of children, which is not true. It is parents who love their children not 'experts'. It will make parents increasingly confused and anxious about how they relate to and discipline their children. It will further 'professionalise' parenting and undermine the spontaneous cultural development of parenting practices based on common, experiential norms. It will add to the unhealthy political and cultural norm of blaming parents for wider social and structural problems. This allows politicians to side step the responsibility of addressing major structural problems in society. It will help degrade trust between adults and between parents, further undermining spontaneous relationships and creating a framework where parents feel the need to look over their shoulder constantly to see who is watching them. It will further promote the idea that parenting is best and often only done with the say so of professionals and parenting 'experts' who know best.

## Page 11: Financial implications

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have?

Some increase in cost

**Please explain the reasons for your response**

If enacted as written there may be social work, police and wider criminal justice professionals unnecessarily involved in disciplining and prosecuting parents. It is also possible that the further confusion of parental authority will result in an over reliance on professionals and outside bodies to carry out this role of disciplining children.

## Page 12: Equalities

Q6. What overall impact is the proposed Bill likely to have on the following protected groups (under the Equality Act 2010): race, disability, sex, gender re-assignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity?

Negative

**Please explain the reasons for your response**

As mentioned, it will undermine the authority and autonomy of parents regardless of their 'categorists'. The impact will perhaps be greatest amongst poorer section of society who don't appear on your constructed list of 'protected groups'.

Q7. Could any negative impact of the proposed Bill on any of these protected groups be minimised or avoided?

Don't pass this bill.

## Page 14: Sustainability of the proposal

Q8. Do you consider that the proposed Bill can be delivered sustainably i.e. without having a disproportionate economic, social and/or environmental impact?

No

**Please explain the reasons for your response:**

See all previous answers.

## Page 15: General

Q9. Do you have any other comments or suggestions on the proposal?

This is a bad bill.  
Allow society to develop its own parenting culture and only interfere in families when there is serious neglect, abuse or cruelty.  
Stop assuming that parents are a danger to their children, they're not.  
Stop thinking that social problems can be solved through changing parenting practices, they can't.