

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".)

Professional with experience 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 If you choose the second or third option, a name is still required, but it will not be published.

A C Grant

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

1. I believe that the 2003 ct was very thoroughly discussed and the right conclusions were reached. 2. Parents are not perfect; they have special responsibilities (ie for looking after their children and bringing them up) and should have some privileges the better to discharge these responsibilities. On the one hand the state gives them financial and other support; we should give them more training and advice about how best to undertake their task. On the other hand we should 'cut them some slack' when they fail to be perfect. 3. I think that the suggestion in the proposal that this is not about putting parents in prison is specious. 4. We should not put into law counsels of perfection. 5. The opportunity for spurious and vexatious allegations will create chaos in the legal system and further sour parent/child relationships which the state should be attempting to repair.. 6. There is a horse's tail problem about definitions - where a parent eg forcibly grabs a child to protect it but eg causing pain there will be a case to answer were this proposal to go through.

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

Unsure

Please explain the reasons for your response

This depends on what the real objectives of the proposal are. 1. If it is to "send a message" then yes there are far better ways to achieve progress - by public awareness advertising and by introducing examinable courses on family life/psychology etc. into schools. 2. If it is to stop all smacking then this bill will not achieve the purpose anyway - as many children will choose not to report their parents. 3. The bill will also prove dysfunctional as it will further sour relationships within problem families.

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?

There are absolutely no advantages. Parents who are minded to abuse their children will either carry on regardless or they will find other ways which will prove ultimately even more dangerous to psychological wellbeing

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?

For discipline to be effective it needs to be immediate and it needs to be applied in a way that demonstrates that the punisher bears no subsequent grudge or ill will. Ideally this should be done without recourse to physical chastisement, but there are many day-to-day circumstances which militate against this and a short sharp reminder is indeed the most effective short term remedy - which can be followed up by the necessarily more time consuming discussion/explanation and reconciliation. The line between physical punishment on the one hand and 'active restraint' or 'forcible removal from danger' etc. is actually impossible to draw - leading to interminable and costly litigation.

By banning anything which could be construed as physical punishment we actually prevent parents and children being open in discussion with social workers, psychologists, police etc. who might otherwise be able to give them intelligent advice to reduce subsequent incidents.

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

Significant increase in cost

Please explain the reasons for your response

**Increased litigation **Increased unhappiness of children because of the brooding resentment caused by punishment divorced in time from the incident. **Poorer parenting as parents worry that they might do the wrong thing **More children taken away from parents leading to huge extra cost of "looked after" children. **More police time taken up with investigations of allegations **More wasted police time from vexatious/false allegations **More opportunity for cost incurred due to social breakdown by neighbours reporting on each other

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

RACE: We have many ethnic minorities living in Scotland who have little or no understanding of the law even now. They will be greatly further disadvantaged by this bill. What they need is acculturation and teaching about alternative non-physical methods. This law would do nothing to assist here - merely criminalise them. RELIGION: So too with religion where many sects consider righteous chastisement not only a right but a duty (see eg the Bible: "spare not the rod..."). Because I agree that alternative methods are to be preferred we need to promulgate good alternative practice. But this bill is all stick and no carrot. DISABILITY: There are several types of disability where intellectual reasoning just does not work and parents are likely to be particularly exasperated. In these cases in some situations a simple 'cuff' may well be the best way to train behaviour. Of course we should seek and prefer alternatives, but we and they are rarely perfect or in perfect circumstances. AGE: Because a child is not free (as an adult is) to walk away from a problem the last thing that child needs is burning resentment by the parent. The inability to deal with a problem immediately and promptly will further disadvantage the child by breeding deeper negative feelings on the part of the parent. When a parent is frustrated by a child's behaviour then a smack can discharge those negative feelings and the parent can resume a loving stance towards their child. Now I entirely accept that this is not ideal, but the law should not require us to be ideal.

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

Not as the bill stands.

I entirely agree that further action to reduce/minimise physical punishment is desirable - but a wholly different bill is required to do this. If the proposer is willing to withdraw this bill I would be delighted to set out a whole suite of proposals which would do what he actually wants to do.

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:

More children will be taken into care - economic and social cost There will be more court proceedings involving also police, social workers, psychiatrists etc. - economic and social cost Social workers in particular are already overstretched so other groups will be left even more underserved - social cost leading to economic cost. The environmental cost is difficult to assess, but it is likely that this bill would lead to greater numbers of feral children creating trouble for themselves and for others, including littering, vandalism, graffiti, assault etc. with a resultant increase in problematic drug taking with the collateral damage which normally follows.

Page 15: General

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

Yes.

What used to be called "Social and Health" education needs to be increased in status with proper examinations at every level and include modules about family life. I think that the more responsible attitude which would be instilled in this way which would result from such classes (curriculum suggestions on request) would be highly desired by employers and by HE institutions alike and would be popular with students. While there would be a small amount of extra cost involved in some retraining, in fact the underlying cost is nil - the same students are still at school for the same length of time.

There is a case to be examined whether it would be practical to make family and/or child benefits and tax credits dependent upon good behaviour and attendance wherever learning takes place. This would quickly instil an understanding about responsible behaviour on the part of the student. The practicality arises as this might prove too costly to implement.

Where repeated resort to physical punishment comes to the attention of relevant professionals they should be encouraged to consider reporting this to the Children's Panel with the intention that a formal review can take place and good guidance can be given - perhaps via Parenting Orders and/or a requirement to attend Parenting Classes - failure to abide by which would be subject to legal sanction.

As alluded to above defining what is to be banned is a nightmare to implement - and so interpretation would be largely arbitrary: an open goal for the sanctimonious (who are in any case too often shouting loudest to deflect attention from their own shortcomings). This is not the way forward. What we need is education and persuasion - and the law is the wrong implement for this.