

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 If you choose the second or third option, a name is still required, but it will not be published.

Dr Jonathan Sher

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 Supportive

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**

I have read, and agree with, the arguments and evidence already presented in the Consultation document itself, as well as in the submissions by such knowledgeable and respected Third Sector organisations as Together and Children's Parliament. This is a subject in which I have had a professional interest for the past two decades -- during which time I have independently reviewed the relevant research and credible information sources across the OECD nations. Four points not already extensively covered in the documents I have reviewed are worth considering. 1. Children are people, not property (as was sometimes the case historically) -- and no adult has the right to assault other people. There are times and circumstances when physical force can be used against another person, but such cases fall into various forms of defence, e.g. self-defence. It is telling that the first advocates for child welfare, and against physical punishment, in the USA was the Society for the Prevention of Cruelty to Animals. The SPCA's conviction was that children must be afforded greater legal protection than 'dumb' animals. 2. 'Justifiable assault' should be (and increasingly is in many societies) regarded as an oxymoron -- along with such other anachronistic terms/concepts as 'illegitimate children'. While the adults responsible for any child's life and wellbeing do have a set of additional moral and legal responsibilities for, and toward, that child, there is no reasonable justification for them having an additional right to assault any child. While appropriate guidance and restraint can be legitimate and necessary forms of protection and parenting, assault is not. 3. It is a failure of leadership and an act of political cowardice to hide behind 'waiting for a sufficient shift in public opinion' to act to eliminate the legal defence of 'justifiable assault' against a child. The Scottish Parliament and Scottish Government have both moral and legal obligations to take meaningful actions -- such as the one proposed here -- that prevent harm to, and promote the health and wellbeing of, all of Scotland's children. On a cross-party basis, the necessary rhetoric, aspirations and public commitments already exist. What does not yet exist is the cross-party political will to deliver fully the promises already made and the priorities already established. The gap between rhetoric and reality is a wellspring of public cynicism about politicians and governments, whereas actually 'doing what it says on the tin' usually results in public confidence and heightened credibility. 4. Part of taking effective action involves not only the passage of this proposed legal modification, but also both a public campaign and a concerted effort to prepare both professionals and parents (current and prospective) properly about genuine, proven alternatives to physical punishment/assault. There are lessons to be learned from the failure of such campaigns as Nancy Reagan's 'Just Say NO' anti-drug initiative in the USA. Simply telling parents that they cannot assault children anymore will not sufficiently alter behaviour. Changing hearts, minds and actions requires a more than superficial set of 'after the fact' interventions. Instead, positive cultural and behavioural changes are most likely to result as the level of primary prevention and education across the life course, especially when such initiatives are created and carried out BY and WITH parents and children themselves.

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**

Please see my previous answer. The passage of the intended Bill is a first step, not the final one.

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?

These reasons have already been explained well in the Consultation document and the submissions by Together and other organisations. I have nothing new to add.

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?

Confusion and 'push-back' by a small, but vocal percentage of parents, who either do not understand or choose to misunderstand the intent and impact of equal protection. Avoiding or diminishing that push-back is another compelling reason for extensive, robust follow-actions with and by parents and children.

## 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**

The follow-up work I have recommended is not cost free, but it is an investment that predictably will yield significant short, medium and long term savings to Scotland's 'public purse' in health, mental health, justice, education and other public sector areas of 'failure demand' expenditure (as spelled out six years ago by the Christie Commission). The cost of following up properly is minuscule when compared with the costs of such failure demand.

## 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?

Positive

**Please explain the reasons for your response**

These are protected groups in the first place because some of their members experience negative and unnecessary treatment. They are in that sense, vulnerable. This Bill protects one such vulnerable group (children). That, in turn, sets a positive precedent for the further protection and positive development of all these groups.

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

Once the Bill is enacted, the 'game' will be won or lost in the follow-up actions and initiatives already described.

## 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?

Yes

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

Already explained

## Page 15: General

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

It is long overdue. Political timidity is no longer necessary or wise -- even in pragmatic terms.