

Children (Equal Protection from Assault) (Scotland) Bill

Page 2: About you

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

on behalf of an organisation

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".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

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 If you choose the second or third option, a name is still required, but it will not be published.

Scottish Youth Parliament

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

The Scottish Youth Parliament (SYP) is fully supportive of this proposal as a fundamentally rights-based, democratically elected, and youth-led organisation which truly represents the diverse views and interests of young people across Scotland. We believe it is unacceptable that the physical assault of children and young people can be justified in Scots law in the context of punishment. In our Lead the Way (2016-2021) manifesto, we conducted a mass consultation on young people's views on various issues, securing 72,744 responses. One of our resulting manifesto commitments, the highest level of SYP policy, is: 'All physical assault against children should be illegal.' Respondents, who were aged 12-25, were overwhelmingly in support of this statement, receiving 82% agreement of our membership. As an organisation, our mission, vision and values are grounded in the United Nations Convention on the Rights of the Child (UNCRC). In particular, our purpose embodies Article 12: that young people have the right to express their views freely and have their opinions listened to in all matters affecting them. Our vision for Scotland is of a nation that actively listens to and values the meaningful participation of its children and young people, and our goal is to make this vision a reality, in order to ensure Scotland is the best place in the world to grow up. We believe Scotland should be leading the way in terms of fundamental rights protection. For example, at SYP's June 2017 National Sitting, MSYPs voted for 'Young People's Rights' as the topic of our next national campaign (2017-2018), after consulting with over 4,000 young people across Scotland. It is our view that Scotland cannot be regarded as the best place in the world in which to grow up when our law gives children and young people less protection from assault than anybody else in society. Indeed, Scotland is lagging behind internationally, as only one of four European Union member states which still permits physical punishment of children. The national and international research is loud and clear on this issue – physical punishment of children and young people is detrimental to children and young people's long-term health and wellbeing and adult outcomes, carries a high risk of escalation into abuse, and receives decreasing public support. Physical punishment is a violation of children and young people's rights, as has been identified repeatedly by the UN human rights committees, the Council of Europe and the EU. As stated in the consultation paper, it is contrary to Scotland's human rights obligations (such as Article 19 of the UNCRC and certain provisions of the European Convention of Human Rights as incorporated in the Human Rights Act 1998), and the Getting It Right for Every Child policy. SYP believes the defence of 'reasonable chastisement' in common law, cemented by the 'justifiable assault' concept in Section 51 of the Criminal Justice (Scotland) Act 2003, is discriminatory as it results in weaker protection from assault for the youngest in society. We posit that children and young people merit equal, if not greater, protection from physical punishment, and certainly not less protection. This can only be done through legislation, and it needs to happen sooner rather than later. SYP congratulates John Finnie on this bill proposal and fully supports civil society campaigns for equal protection, including those of our partnership organisations Children 1st, Barnardo's Scotland, NSPCC, and Children and Young People Commissioner Scotland. We hope we can go forward together, and remove this abhorrent legal anomaly that allows people to hurt one of the most vulnerable sections of our society.

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

SYP believes that we need to legislate to give children and young people equal protection, in addition to the proposed Scotland-wide information campaign to raise awareness of the change in the law, educational materials aimed at supporting parents and changing public attitudes towards physical punishment, and additional parenting support. We know from experience that legislative change can catalyse wider changes in societal attitudes and behaviours, as happened with the ban in smoking in public places, which SYP also campaigned for. SYP calls for legal reform for equal protection now, without any further delay.

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?

The main advantages include:

- Children and young people would have the same legal rights and protection from assault as adults.
- It would break any cycles of violence and safeguard the rights, health and wellbeing of children and young people. This would result in improvements in mental health, better educational attainment and a reduction in anti-social behaviours.
- It would shape public attitudes towards the practice of physical punishment against children and young people, ultimately reducing its prevalence.
- It would also bring the law up-to-date with society's declining support and use of physical punishment against children and young people.
- Scotland would be in compliance with its international human rights obligations, setting a good example internationally and sending out a clear message that our society does not tolerate violence, and that we treat each other with dignity and respect.
- Parents and others caring for or in charge of children and young people will have stronger and healthier relationships with them.
- It would make the law and what is acceptable clearer to parents and carers.
- It is an opportunity to promote positive parenting or caring strategies.
- It would underpin Scotland's efforts to reduce violence in society.

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?

SYP believes that providing certain steps are taken (Children's Rights and Well-being Impact Assessment, adequate parental information and support, funding for public services, awareness raising about the non-punitive nature of this reform in relation to parents and others caring for or in charge of children), there will be no significant or immitigable disadvantages to prohibiting all physical punishment of children and young people.

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

SYP's response supports the resource implications estimation set out in the consultation paper.

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

As previously stated, it is likely to afford children and young people with the same legal rights and protection from assault as adults, alleviating the age-discriminatory effect of Scots law as it stands as regards physical punishment.

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

N/A

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

Page 15: General

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

None.