

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 If you choose the second or third option, a name is still required, but it will not be published.

Includem

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

Please explain the reasons for your response

We strongly support the aims of this Bill and are in complete agreement that all children should be given equal protection from assault by prohibiting all physical punishment of children.

There are a number of reasons why we take this position including the fundamental infringement of the rights of children and young people and the adverse effect that physical punishment has on health and wellbeing now and in the future.

We also note the significant evidence base which is outlined in the consultation document and by other organisations about the lack of effectiveness of physical punishment. Although we recognise this argument, it is not our primary motivation in supporting this Bill.

Includem works across Scotland supporting children and young people from age 5 to 25 in their community, often in their own home. Although directly supporting individual young people, our work is holistic – supporting the whole family to work through complex issues to ensure outcomes are sustainable in the long term.

The range of complex issues often includes histories of violence within the household, including in many cases parents who themselves were victims of violence in the past. We work intensively with the family to ensure a different approach is taken to resolving disputes – challenging the norm that violence is the answer.

This practice experience is echoed in the vast evidence base which now exists about the long-term consequences of physical punishment for children's health and development. "Equally Protected? A review of the evidence on the physical punishment of children" (Heilmann, Kelly and Watt 2015) found very clear and consistent evidence of the link between physical punishment and childhood aggression and negative behaviour and the "vicious cycle of cascading behaviour" – physical punishment often exacerbating existing violent behaviour rather than diminishing it. It also summarised a number of studies which state the link between childhood physical punishment and behaviour in adulthood – the 'carry over' effect.

Our model of intervention is focused on building trusting, reliable one to one relationships with children and young people. Numerous studies have demonstrated the impact that physical punishment in early years has on relationships in later years, in particular relationships and attachment with parents (Lansford et al 2009; Mackinnon-Lewis et al 2014).

Finally, an underlying risk factor in a large number of the young people we support is the misuse of alcohol and drugs. This is particularly, though not exclusively, prevalent in the young people we support through our reducing violent reoffending project in Glasgow. Evidence points to a link between physical punishment in early years and childhood and increased misuse of alcohol and drugs in later life. The increased risk of alcohol and drug misuse as a result of early physical punishment has been predicted at 30% in one study (Afifi et al 2006) and 60% in a later study (Afifi et al 2012). This demonstrates a clear link between physical punishment and negative long-term outcomes.

It is from this varied experience that we recognise how important it is that the law reflects our practice and Scottish Government policy ambitions. We fully support the principles of Getting It Right For Every Child (GIRFEC) and within that the wellbeing indicator which relates to young people being safe:

"Every child and young person has the right to be, and feel, safe and protected from any avoidable situation or acts of commission or omission by others that might affect their wellbeing".

The examples given including being physically, sexually or emotionally harmed in any way or being put at risk of such harm. We take the view that unless the common law on assault is amended to remove the unjustifiable exemption for physical punishment of children that policy ambition cannot be achieved.

It is our view that realising not just the policy ambition of GIRFEC but the statements of numerous Ministers which state that the Scottish Government "does not support the physical punishment of children" requires the approach taken in this Bill.

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

As outlined above, the policy environment already supports the principle that violence against children, including physical punishment is not acceptable, and yet it remains legal. The only way to give children and young people equal protection from assault is to change the common law on assault. We wholeheartedly support the view of Children in Scotland and others in their consultation response when they state: "Having a defence of 'justifiable assault' within Scots law is an unacceptable breach of child rights that will not change until the law changes. It will leave Scotland increasingly out of step with other countries within Europe and beyond". We recognise that alongside a change in the law, consideration does have to be given to how the message is conveyed and to supporting parents with positive parenting messages. Recognition needs to be given to the complex lives many families lead and if this change in the law is to be successful it should be implemented alongside greater support for families in need – not parenting programmes, but individually tailored support to meet the needs of the young person and family as a whole.

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?

Fundamentally giving children equal protection from assault will make children safer and reduce their risk of harm, both in the immediate sense and in terms of the long-term impact of physical punishment.

We would also emphasise the positive statement such a change makes to how children are seen in Scotland today – not as people beneath the law but as equal citizens, as entitled to protection as any of us. It would be an important and serious statement about how Scotland views children's rights.

Prohibiting all physical punishment is also an important step in changing attitudes generally in society towards violence. It would give a consistent message that violence is not an acceptable way to resolve disputes or a suitable response at points of crisis. This links to important other work on reducing violence in schools, and for example in the recent Equally Safe strategy around reducing violence against women and girls.

At the risk of repetition however, we would emphasise our first paragraph once again – there are numerous benefits to changing the law on physical assault of children but fundamentally this is about saying clearly and without any ambiguity that violence against children – no matter who it is by – is completely unacceptable.

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?

In our considered opinion there are no disadvantages of giving children equal protection from assault.

We would dispute, alongside a wealth of independent and academic evidence, many of the arguments put forward in defence of physical punishment. Arguments are often cited that physical punishment has no long term impact on children; that physical punishment is a positive way of teaching safety and good behaviour; that parents will be criminalised by this change or that child protection referrals will increase to the point where 'genuine' concerns will be missed. All of these arguments are easily disproved using the evidence and the experience of countries who have already taken the step to remove the loophole on assault against children.

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

Some reduction in cost

Please explain the reasons for your response

For this legal change to be successful there will be a short-term spend requirement to publicise the change and for a public information campaign around positive parenting and the justification for the change in law. We would also support an increase in individually tailored packages of family support for those parents who are most at risk and most likely to engage in physical punishment. We would also encourage additional spend to enable children and young people themselves to convey the change in the law in a way that is easily understood and that reaches them via appropriate communication channels. For children's rights to be upheld children and young people themselves need to fully understand and have confidence in their ability to assert them. We would envisage these costs to be short-term as behaviour and culture changes. Indeed recent evidence has pointed to the fact that public attitudes have already shifted significantly away from support for physical punishment – the Growing Up in Scotland (GUS) survey work for example found that between 80 and 90% of parents considered 'smacking' to be 'not very' or 'not at all' useful. However, longer term we consider this change would reduce costs. The work we do with young people and families is often as a result of adverse childhood experiences. We have long supported the call for greater early intervention (at all stages, not just in early years) and a preventative approach. The Scottish Government is committed to this in policy terms. This change in the law is preventative by reducing the long-term impact that is clearly evidenced physical punishment has on children and young people. As a result, it is also a cost saving measure – preventing the significant consequential costs that will be incurred later in life from all the factors outlined earlier. We would encourage research to be carried out following any change in the law to fully understand the potential preventative spend – to analyse the lower risk of negative outcomes later in life against the current spend in terms of education, health and other public services.

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

We consider this proposal would have a positive impact on all children and young people including those in all of the protected characteristic groups.

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

No Response

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?

Includem has 20 years' experience working with vulnerable young people across Scotland. We recognise the impact of physical punishment in our day to day work and it is from this experience we fully support this proposal.

We fully endorse the comments of Bruce Adamson, Children and Young People's Commissioner for Scotland:

"Scottish law provides for children to be assaulted by their parents or carers for the purpose of punishment – an affront not only to the human dignity of the child, but to the core principles of the United Nations Convention on the Rights of the Child".

This Bill is an important part of putting into practice Scotland's commitment to children's rights and is vital in protecting children and young people from harm now and in the future.