

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

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)

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 If you choose the second or third option, a name is still required, but it will not be published.

NHS Health Scotland

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

NHS Health Scotland welcomes the opportunity to respond to the Scottish Government consultation on a proposal for a Bill to give children equal protection from assault by prohibiting the physical punishment of children by parents and others caring for or in charge of children. The World Health Organization's Global Plan Of Action, (2016) , includes corporal punishment in its definition of violence against children that is perpetrated by adults in positions of trust and authority. It states that: 'Violence against children (aged 0–18 years), including adolescents, is widespread and constitutes a violation of their human rights. It has lifelong negative consequences, including ill-health, health risk behaviours, and experiencing and perpetrating subsequent violence. In many countries, violence is often considered an acceptable way of disciplining children'. Thus, it asks that members states and health services advocate for the adoption of laws and policies that align with human rights and enforce policies to prevent violence against children in all settings and in particular the home, schools, community and residential care. Similarly, the WHO European Child Maltreatment Action Plan (2015-2020) highlights that corporal punishment has still not been banned in all settings in half of the countries in the Region and that existing legislation to protect children's rights and to prevent child maltreatment might need to be strengthened. NHS Health Scotland supports the stance that physical harm/violence is never acceptable, especially against children, even if this is perpetrated in the name of discipline. On the basis of the clear and compelling evidence presented below that the physical punishment of children plays no useful role in their upbringing and poses only risks to their development, parents should be strongly encouraged to develop alternative and positive approaches to discipline . NHS Health Scotland, as a public health body supports this Bill from a public health perspective. This stance that physical harm to children has a detrimental impact on their health both for short and long term outcomes is robustly evidenced and is detailed in our response to question 3. Additionally, this would both bring the law in Scotland into line with WHO and Europe, and would equally align with the principles of GIRFEC Health Scotland's position is endorsed by Article 19 of the UNCRC: Article 19 1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. 2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement. Scotland's current legislation is out of step with the UN Convention. This would be addressed by the proposed change to current legislation. Moreover, such change would bring Scotland into alignment with many other European countries . To quote Emeritus Professor R K Oates (2015) "It is illegal to hit animals and prisoners. It is illegal for adults to hit each other. Only children can be legally hit."

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

The proposed change to the current legislation makes it explicitly clear that it there should be no circumstances in which corporal punishment is condoned/justified as children have the right to be protected from all types of physical harm in all circumstances. Recent evidence relating to the prevalence of corporal punishment in Europe has shown that its use is highest among parents in Turkey and Lithuania where it remains legal, (after controlling for parental age, education level and employment status). This provides preliminary evidence that in countries where there are no negative legal ramifications of practising corporal punishment, it is more likely to encounter parents who engage in its use. It has been demonstrated that implementation of legislation in other countries has had a positive effect on public attitudes towards physical punishment. Almost thirty years after the ban was implemented in Finland there has been a marked change in public attitude towards physical punishment. As a result of the legislation, fewer parents use physical punishment as a form of discipline . This evidence therefore supports the need for legislation banning it in all circumstances . It might reasonably be anticipated that the response to a complete legislative ban on corporal punishment could have the potential to see positive public health impact as has been demonstrated by legislation around car seat belts or smoking in public places.

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 evidence cited in the consultation document provides a clear argument to support the Bill. Of particular importance is the Equally Protected? (2015) evidence review which provides compelling evidence to support the idea that the legal protections in place to give parent's the right to physically punish their children is now outdated, potentially harmful to the child and ineffective as a parenting strategy.

To ensure that our response to this consultation is fully evidence informed, NHS Health Scotland updated the evidence searches included in Equally Protected and expanded upon them to cover the years 2015-17. These additional searches have identified further evidence to substantiate our full support to giving children equal protection from assault by prohibiting all physical punishment of children. The search criteria is available upon request.

Evidence from academic, medical, public health and human rights organisations has consistently indicated that corporal punishment is not associated with improving children's behavior . Corporal punishment is linked to an increased risk that a child will be physically abused by their parents , with increased odds of all child maltreatment including emotional, sexual, physical abuse, physical and emotional neglect and exposure to intimate partner violence . Indeed, it is argued that corporal punishment and physical abuse are not categorically different behaviours, but rather they represent different points along a continuum of hitting children .

Physical punishment has been shown to be associated with several negative outcomes for children, including; an increase in aggression, antisocial behaviour, mental health problems, internalizing problems, externalizing problems, negative relationships with parents and lower moral internalization, cognitive ability and self-esteem . These findings are supported by others, i.e., that children exposed to main caregiver smacking in the first 2 years are at increased risk of emotional and behavioural problems at age 4 . Additionally, recent consideration of the impact of adverse childhood experiences (ACEs) demonstrates an association between the experience of physical abuse in childhood and negative behavioural outcomes .

Corporal punishment has been shown to be associated with adult antisocial behaviour, mental health problems and adult support for physical punishment . Most recently harsh physical punishment has been shown to be associated with an increased likelihood of intimate partner violence (IPV) victimization and/or perpetration in later life . Thus, despite noted limitations, these latter findings suggest that the impact of corporal punishment may be long lasting beyond childhood.

Emerging evidence suggests that physical punishment constitutes a source of toxic stress in children that may have an impact on brain development and functioning. This new thinking makes the case that physical punishment qualifying as a toxic stressor in children warrants further investigation. Nonetheless, this new hypothesis offers additional support to legislation banning the use of any corporal punishment.

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?

None

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 reduction in cost

Please explain the reasons for your response

In the European child maltreatment prevention action plan 2015–2020, WHO (2014) it is stated that; 'Emerging evidence suggests that the economic and social costs are very high, with heavy costs for health care, social welfare, justice and lost productivity, perhaps running into tens of billions of Euros. The extent

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

of maltreatment, its far-reaching health and social consequences and high economic costs emphasize the importance of its prevention.' Although the above quote specifically relates to child maltreatment as a whole, we acknowledge that since the physical punishment of children is part of this continuum, the broader societal cost of violence against children is large. Potential cost savings to existing mental health services delivered to children and adults in response to the negative outcomes of corporal punishment as outlined above are anticipated. The new Universal Health Visiting Pathway in Scotland offers greater face-to-face contact between professional and family. Therefore, the opportunity to disclose of difficulties and the need for parenting support may well increase leading to costs associated with the delivery of parenting support to ensure that it is delivered in an accessible and timely manner. However, these costs might well be offset by the reduced cost to children, young people and adult mental health services. Additionally, costs may well be incurred in relation to the delivery of up to date evidence informed training for professionals (see response to Question 9). We need to remember that beyond these potential financial implications we should not lose sight of the human costs to children, adults and their families. There should be support in place for this change to take place to ensure parents are clear on the law and are equipped with alternative skills & tools to discipline their child in a way that will not be detrimental to their wellbeing, parents should be strongly encouraged to develop alternative and positive approaches to discipline.

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

If we consider the physical punishment of children to be part of a continuum of violence that is related to the cultural acceptability of violence in our society, it may well be anticipated that a reduction in the acceptability of corporal punishment and actual violence would disproportionately benefit those at risk because of their gender, race etc. The Bill is likely to level up different cultural approaches in the Scottish population towards non-smacking norms, and in support of Oates, (see response to question1, page 3) to level up age differences in by offering protection from the use of physical pain as a disciplinary tactic. Recent evidence also considered race as a moderator of associations between spanking and child outcomes. This showed that spanking is similarly associated with negative outcomes for both Black and White children in the United States. This evidence points to the need for professionally delivered parenting interventions that promote positive disciplinary techniques that are sensitive to and address cultural differences related to discipline.

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

NHS Health Scotland believes that there would be no negative impact of the proposed 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?

Yes

Please explain the reasons for your response:

NHS Health Scotland believes that the Bill can be delivered sustainably.

Page 15: General

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

The WHO Global Plan Of Action, (2016) advocates for the implementation of evidence-based interventions to prevent child maltreatment and in particular, programmes that can be delivered through health systems, such as home visiting and parenting programmes. These aim to strengthen safe and nurturing relationships within families and between parents, caregivers and children and ensures that such programmes meet the prevention needs of marginalized groups.

A recent survey of paediatric nurse practitioners showed a significant change in practitioner attitudes pre and post one hour's education (about current evidence, the negative impact of corporal punishment on the child, changing global attitudes and alternative forms of discipline), the need to provide child health practitioner education to advocate for the use of positive parenting principles and to discourage the use of corporal punishment is emphasised.

Similarly public education campaigns to support the Bill would need to address the same issues as those included in the professional training.