

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

Representative organisation (trade union, professional association)

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 If you choose the second or third option, a name is still required, but it will not be published.

The Scottish Centre for Crime and Justice Research

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

The use of corporal punishment has been associated with aggressive behaviour and emotional and behavioural problematic behaviour in childhood and into adolescence/adulthood. Research has shown that the use of corporal punishment is also an ineffective disciplinary approach as it does not reduce or prevent undesired behaviours in children. There is little support in the UK for its use, and Scottish research from 2002 found the majority of parents (58%) agreed it was not a good thing to do. In analysis of data from the first four sweeps (2005/2006 to 2008/2009) of the 'child cohort' of the Growing up in Scotland longitudinal study, it was found that belief in the efficacy of smacking at age three by the child's main carer was associated with conduct problems (Wilson et al., 2013). Legislation prohibiting physical punishment in the home has been widely accepted in the countries in which it has been introduced. A survey of about 11,000 adults from 14 European Union countries has shown that the existence of national laws banning physical punishment of children is associated with lower levels of acceptability of physical punishment within the population (Gracia and Herrero, 2008). In the 2008 concluding observations to the UK of the UN Committee on the Rights of the Child, concerns were expressed that the 'reasonable chastisement' defence had not been removed, emphasising that any defence in cases of corporal punishment of children did not comply with the UNCRC principles. See: Robertson, L. (2017), Literature review on outcomes of parental discipline styles, evidence on effective parenting styles and the international experience of prohibition of physical punishment in law. Glasgow: Scottish Centre for Crime and Justice Research (<http://www.sccjr.ac.uk/wp-content/uploads/2017/08/Literature-review-on-outcomes-of-parental-discipline-styles.pdf>)

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 aim of the proposal is to promote and safeguard the health and wellbeing of children and young people by protecting them from physical punishment. Alternative approaches to achieving this aim may include providing more support to parents, including education about good parenting skills and anger management interventions, and public information campaigns. According to Durrant (2012), there is considerable evidence that providing support and education to parents can reduce their use of physical punishment. Studies show that behaviourally based programmes impact positively on the efficacy of parents and on children's behaviour. However, research with health care professionals has conveyed some concern that telling parents what disciplinary approach to use is seen as an intrusion into family life (see Taylor and Redman, 2003). Comparative research has concluded that law reform needs to be accompanied by intensive and long-term information campaigns to have the strongest impact (Busmann, 2009). See: Robertson, L. (2017), Literature review on outcomes of parental discipline styles, evidence on effective parenting styles and the international experience of prohibition of physical punishment in law. Glasgow: Scottish Centre for Crime and Justice Research (<http://www.sccjr.ac.uk/wp-content/uploads/2017/08/Literature-review-on-outcomes-of-parental-discipline-styles.pdf>)

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?

In Heilmann et al.'s (2015, p. 8) systematic review of the evidence on physical punishment, the researchers concluded that physical punishment is related to an increased risk of child maltreatment as physical punishment and physical abuse are part of 'a continuum of violence'.

A literature review of 20 years of research on the outcomes of physical punishment found it was associated with high levels of aggression against parents, siblings, peers and spouses even when controlling for confounding variables such as parental stress and socio-economic status (Durrant, 2012).

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?

A research study with children aged between five and seven found the majority thought smacking was wrong, with reasons given that it hurts, people do it too hard or parents could do something else (Willow and Hyder, 1998). As children experience fear, sadness and pain from being smacked, this prevents their ability to internalise parents' disciplinary messages (Grusec and Goodnow, 1994).

See: Robertson, L. (2017), Literature review on outcomes of parental discipline styles, evidence on effective parenting styles and the international experience of prohibition of physical punishment in law. Glasgow: Scottish Centre for Crime and Justice Research

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?

Prohibiting all physical punishment of children risks drawing more parents into the criminal justice system. However, the Council of Europe (2008) advocates that prosecution of parents and other formal interventions should be reserved for serious cases only. In Sweden, the ban on physical punishment is written in the Parents' Code and does not include criminal penalties.

In New Zealand, police have discretion not to refer complaints to prosecutors if an offence is considered inconsequential and there is no public interest to prosecute (Durrant, 2007), and parents have been reassured that they "will not be criminalised or unduly investigated for lightly smacking their children" (Broad et al, 2009).

In Germany, too, criminal prosecution of parents for hitting their children must be found to be in the public interest (Bussman, 2001, cited in Naylor and Saunders, 2012).

The majority of countries that have legislated for a ban on physical punishment have not been accompanied by wide-scale public support before the ban. Anderson et al.'s (2002) research in Scotland found that parents were more concerned with legislative changes reducing their rights as parents to choose discipline methods, and less concerned about children's rights issues. For this reason, the researchers stated that any legislation needs to be explained in a way that acknowledges the difficulties and pressures faced by parents and situates issues of discipline in a broader context.

See: Robertson, L. (2017), Literature review on outcomes of parental discipline styles, evidence on effective parenting styles and the international experience of prohibition of physical punishment in law. Glasgow: Scottish Centre for Crime and Justice Research

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

Legal reform relating to the physical punishment of children must be accompanied by raising awareness of the reform through public education in order to be successful in changing attitudes and supporting parental discipline based on positive parenting (Council of Europe, 2008). Examples of changing disciplinary practices across jurisdictions suggest that a legislative ban is most effective with concurrent awareness raising/educative campaigns, and evidence from Sweden suggests that this is most effective when campaigning is ongoing and intensive. Ongoing and intensive campaigning will have cost implications. See: Robertson, L. (2017), Literature review on outcomes of parental discipline styles, evidence on

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

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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?

Slightly positive

Please explain the reasons for your response

Normative child-rearing practices also vary according to the cultural background of the family, so the legislation change may disproportionately affect those from particular racial and religious backgrounds, and disproportionately benefit children in these families. See: Robertson, L. (2017), Literature review on outcomes of parental discipline styles, evidence on effective parenting styles and the international experience of prohibition of physical punishment in law. Glasgow: Scottish Centre for Crime and Justice Research

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?

Please see Dr Laura Robertson's report for further detail and references.

Robertson, L. (2017), Literature review on outcomes of parental discipline styles, evidence on effective parenting styles and the international experience of prohibition of physical punishment in law. Glasgow: Scottish Centre for Crime and Justice Research