

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 If you choose the second or third option, a name is still required, but it will not be published.

(Scotland) Family Fund

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**

Family Fund is fully supportive of the proposal to give children equal protection from assault by prohibiting all physical punishment of children. Physical punishment has been shown to have a negative impact upon family relationships, children's wellbeing and poorer outcomes in childhood and adulthood. The use of physical punishment has been shown not only to be ineffective but comes with a risk of escalation into physical abuse. With disabled children being more than three times as likely to be physically abused, Family Fund supports this proposal and believes it will be greatly beneficial to the families we support in Scotland. The current legal position in Scotland concerning the physical punishment of children is incongruous with Scottish Government's aspiration to "make Scotland the best place in the world to grow up". The legal defence of "justifiable assault" must be removed if this is to be achieved. The current position is confusing for parents, children and professionals; a change in the law would remove ambiguity and provide certainty to all. The proposed change aligns to the wellbeing strand of Scotland's national approach to improving outcomes and supporting the wellbeing of children and young people: Getting it right for every child (GIRFEC). Specifically, the wellbeing indicator Safe, described as 'Protection from abuse, neglect or harm at home, at school and in the community'. Law reform to abolish all physical punishment of children is an obligation under international law by both United Nations human rights monitoring bodies. The proposed Bill would bring Scotland in line with international standards, as articulated in the UN Convention on the Rights of the Child (UNCRC). Family Fund endorse the recommendation in the 2016 State of Children's Rights Report in Scotland, that; "Scottish Government should ensure children have equal protection as adults from violence by repealing the defence of 'justifiable assault' with immediate effect". This Bill provides an opportunity for Scottish Government to further children's rights and provide children in Scotland with the same level of protection from assault as adults. Put simply: providing children in Scotland with the same level of protection from assault as enjoyed by adults - by removing the defence of "justifiable punishment" - is the right thing to do, and there is no argument to the contrary which would justify a further delay in doing so. About Family Fund Family Fund is the UK's largest provider of grants to low-income families with disabled or seriously ill children and young people, helping to ease the additional daily pressures they face. We are a UK-wide charity, receiving funding from the four UK governments which includes the Scottish Government. Our work is based on the principles of the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities. We work collaboratively with others to help improve outcomes for disabled children and young people to deliver a vision where families with disabled children have the same choices and opportunities as other families. Last year in Scotland, we provided 6,176 low-income families with over £2.8 million in grants for a wide variety of goods and services, including much needed family breaks, white goods, hospital visiting costs and much more. <http://www.gov.scot/Topics/People/Young-People>  
<http://www.gov.scot/Topics/People/Young-People/gettingitright>  
<http://www.gov.scot/Resource/0043/00438640.jpg>  
[http://www.togetherscotland.org.uk/pdfs/UNCRC\\_Scotland\\_NGO\\_Alternative\\_Report\\_2015.pdf](http://www.togetherscotland.org.uk/pdfs/UNCRC_Scotland_NGO_Alternative_Report_2015.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 Bill does not propose the introduction of any new offence, but rather the removal of a legal defence. Family Fund believes that a change in legislation, in conjunction with well-considered public education campaigns will provide clarity to all, bring about cultural change and uphold children's rights in relation to physical punishment and assault. Based on the experience of other countries, we do not believe that a change in legislation would lead to the criminalisation of parents, rather it provides a clear message regarding violence against children and within society. Other non-legislative measures would not have the same level of long-term cultural impact. We believe that public education campaigns regarding the positive benefits of non-violent parenting are important and that these should be supported by adequate family support resources. However, first and foremost a change in legislation is urgently needed.

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 of giving children equal protection from assault by prohibiting all physical punishment are that:

- It will help protect children from the long term negative effects of physical assault. As a consequence, it will support children's ability to achieve their own unique potential, with high levels of wellbeing.
- It will help prevent situations where physical punishment escalates into physical abuse.
- It will provide a clear and consistent message to children and the wider society that violence is unacceptable and damaging to individuals and relationships.
- It will provide a clear message that children are to be valued, respected, listened to and where necessary protected, that they are not the possessions of, or lesser to, adults.
- It will demonstrate Scottish Government's ability to listen to children and young people and up to date research about their needs and wishes and to be willing to take use their powers to respond.

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?

The main advantages of giving children equal protection from assault by prohibiting all physical punishment are that:

- It will help protect children from the long term negative effects of physical assault. As a consequence, it will support children's ability to achieve their own unique potential and optimum level of wellbeing.
- It will help prevent situations where physical punishment escalates into physical abuse.
- It will provide a clear and consistent message to children and the wider society that violence is unacceptable and damaging to individuals and relationships.
- It will provide a clear message that children are to be valued, respected, listened to and where necessary protected, that they are not the possessions of, or lesser to, adults.
- It will demonstrate Scottish Government's ability to listen to children and young people and up to date research about their needs and wishes and to be willing to take use their powers to respond.

## 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**

Family Fund believe that where families are supported to enable their children to achieve their own unique potential and optimum level of wellbeing, costs are reduced. Whilst there will be a requirement for some initial investment in public education and awareness campaigns regarding the change in the law and how to access support services, and well as longer term investment in ensuring adequate family support services, these costs are likely to be offset in the longer term. This would be achieved through children and their families experiencing improved outcomes and a resultant reduction in the need for services arising

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from parents and children experiencing poorer physical and mental health outcomes and relationship difficulties.

## 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

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?

Family Fund believes that the proposed Bill provides an opportunity for Scottish Government to further its aspiration to make Scotland the best place to grow up, to uphold children's right and to provide clarity regarding physical punishment and violence.

If this opportunity is not seized it would be in direct conflict to the research on the negative impact of physical punishment on relationships, child wellbeing and outcomes, the requirements of international law, and the views of children and young people in Scotland.

The proposed Bill allows Scottish Government to consider how best to assist parents to support their child's healthy development and to find alternative and more effective ways to address any aspect of their child's behaviour which challenges them.

Family Fund would like to note that there is a need for the Scottish Government to coordinate across policy areas to ensure adequate and timely support for families. This may be to access information, advice and support in relation to child development and ways to respond to behaviour which is

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

challenging. For example, signposting to products such as ENABLE Scotland's booklet called Tricky Moments , which provides practical tips and strategies for managing challenging behaviour from children who have a learning disability.

To encourage higher levels of wellbeing for families affected by mental or physical health difficulties or disability, Family Fund recommends the adequate provision of accessible family support, such as short breaks and mental health support for children, parents and carers.

In addition, Family Fund asks the Scottish Government to consider what it can do to support healthy family relationships through removing or mitigating the core sources of stress. For example, by using the opportunities provided by the development of a Framework to support Families of Disabled Children and Young People, the new Scottish Social Security system, the Child Poverty (Scotland) Bill and National Strategy to tackle social isolation and loneliness.