

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 If you choose the second or third option, a name is still required, but it will not be published.

Stepping Stones for Families (SSfF)

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

In framing the context of our response, please see below an outline of who SSfF is; our vision statement and an outline of our areas of expertise; the reasons supporting our response to question 1 are also included below. Stepping Stones for Families (SSfF) is a national voluntary organisation. Our vision is that all children and young people have an enjoyable life in a healthy, fair and safe environment where they are respected and supported to achieve their full potential. For almost 30 years SSfF has worked alongside children, young people and families in their communities; we believe in and advocate children's rights, human rights and equal opportunities; we work inclusively whilst respecting and understanding differences. We take the time to build strong, trusted relationships with children, their families and communities; we are resolute in our commitment to Getting It Right For Every Child as we: provide support; services; and opportunities to children, young people, families and communities. As an organisation: • We believe in children, young people and their parents as they strive to mitigate the effects of poverty and disadvantage • We care, trust and seek to be trusted • We respect, advocate for and support children's rights; • We recognise (without hesitation or condition) the United Nations Convention on the Rights of the Child • A children's rights based approach underpins all that we do, and seek to achieve • We plan, develop and provide services in partnership with children and their parents • We use social pedagogy; adopting a non-hierarchical practice toward relationship building and project service delivery. We provide children, families and communities the following services: • Family Support Services • Family Wellbeing Services • Children's Inclusion Project (community based engagement and development led by children) • Money Advice Service (including income maximization and wrap around family support) We also provide high quality and flexible childcare within: • SSfF childcare centres and our (partnership status) nurseries; • SSfF Mobile Crèche Services • Individual family homes, incorporating play with education; meeting the needs of children and families from 6am until 2am, 7 days a week • Out of School Care Service SSfF's View on Equal Protection for Children Children have the right to be protected from all forms of violence as defined in Article 19 of the UNCRC and SSfF fully supports the proposed Bill so that children may exercise their right to be treated fairly and equally under Scots Law. As an organisation SSfF does not condone or support the threat or application of any and all forms of violence on children, including the use of physical violence as a means of communication, punishment or discipline on children.

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

It is SSfF's view that the only way to establish and secure a child's right and opportunity to be afforded equal protection from assault in Scotland is by introducing legislation via the proposed Bill. The United Kingdom (UK) signed the UNCRC in 1990 and established it within law in the UK in 1992 however children still remain without equal protection from violence (UNCRC, Article 19) purely because of their age. SSfF welcomes the ongoing debate the proposed Bill will no doubt generate. Scotland seeks to be "the best place for children to grow up"; but how can Scotland, as a nation, legitimately assert and aspire to this aim whilst children for generations; in the present day; and potentially in the future are denied their right to equal protection from violence and consequently "made to" be victims of assault? Our rhetoric as a nation must be as robust as our principles. There has been welcome and repeated debate, a global treaty, research, campaigning, fear, antipathy, great passion, scientific findings, court cases and the voices of young people and children - and yet children who are supposed to be equal members of our communities, society and future are still not afforded protection from violence – Scotland must end all violence against children. SSfF believes that at this time there is no other way of ultimately achieving this someday without legislation via the proposed Bill. In simple terms, enough is enough. End the use of violence against children, and afford children equality.

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?

SSfF has found that parents who use our services are very keen to: discuss; learn about childhood development; and develop positive coping strategies as well as less punitive forms of managing child behaviour which some parents may find challenging. SSfF considers that these parents are seeking to ensure that they provide a happy, safe, fair and healthy environment in which to raise their children.

The proposed Bill would bring a clarity, an absolute; and ultimately define that no physical violence may be used against children, ever; regardless of context or intent.

Our services are experiencing significant changes in service-user demographics; we are increasingly working alongside and supporting families who have re-settled (migration and/or asylum seeking) in Scotland from other countries where attitudes, family tradition and culture towards punitive child discipline can differ markedly. With this in mind SSfF offer a non-judgemental approach to ensure that parents are educated about UK laws and we explore with parents what is and what isn't considered acceptable in Scotland; and as an organisation we learn during this process too; and this learning informs our approach to parents.

By encouraging an open dialogue with parents (in particular with parents new to Scotland) about cultural differences in general, this gives us a shared opportunity to cover and address the sensitive topics of punishment and smacking.

As an organisation it is imperative to note that SSfF supports parents during their journey with us, to adopt nurturing and positive forms of parenting, as we believe children who are nurtured and are encouraged are happier, healthier and more able to achieve, despite experiencing astonishing levels of hardship, poverty and disadvantage in their young lives. By adopting an early intervention and children's rights based approach underpinned by the principles of "Getting it Right for Every Child" (GIRFEC), SSfF believes we can support families to sustain positive change in their lives.

In relation to principles that underpin all that we do and seek to achieve, there exists a contradiction existing in Scots Law as it relates to equal protection; the UNCRC; the Children & Young People (Scotland) Act 2014; and GIRFEC. The proposed Bill will address this and it is hoped that guidance resulting from the introduction of new legislation will empower children, young people, parents, families and those who support them in ensuring the equal protection of children from assault.

SSfF welcomes this Bill – it will eliminate any and all confusion, and set a standard of equality for all.

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?

During our internal consultation on the proposed Bill, SSfF found a resolute agreement overall, that there are no disadvantages that could be attached to ensuring that all children should be equally protected from assault, and that this right should be supported fully in Scots Law so that a child's right to be protected from violence (Article 19, UNCRC) is defended. Existing legislation in SSfF's view does not achieve this.

Concern was expressed that other, equally punitive forms of punishment (rather than discipline) would be turned to and applied to children, particularly if a parent is fearful that they may be prosecuted for physically punishing their children. SSfF would ask that this issue/eventuality is properly considered.

SSfF would propose that any Bill would include in some way a reinforcement or lend further legislative support to the principle of educating children and young people specifically about their right to protection from violence.

Children who live in homes where physical punishment, violence and assault are the "norm" are significantly dis-empowered, simply because they know nothing different, and this lack of knowledge prohibits the realisation that what is being done to them is wrong, abusive and should not be happening.

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

Unsure

Please explain the reasons for your response

SSfF is of the view that there will be some financial cost to introducing the Bill in the short term; however we anticipate, given our present understanding that there will be a long term financial savings for the state as a direct result of providing equal protection to children from violence; by reducing their exposure to adverse childhood experiences.

Supporting Children

SSfF suggests that the proposed Bill should outline what structures (funding, reporting, and infrastructure systems) are to be put in place to ensure that children are educated and understand their right to equal protection from all forms of violence (Article 19) from a very early age; and importantly the routes available to them for support.

During discussions surrounding the proposed Bill, the issue of malicious allegation (by both children and/or others) of physical assault was raised. SSfF would ask what (if any) consideration will be given in terms of how this issue may be addressed? And that due consideration is given to the potential of this unexpected outcome and how any additional burden will be managed effectively by all agencies including social work services; NHS (including health visitors); Police Scotland; and the voluntary sector.

Supporting Parents – Preventing Criminalisation, Promoting Positive Parenting

Research suggests that parents who suffer with depression and anxiety are more likely to use physical chastisement – therefore SSfF would argue that it is important that early intervention approaches and additional support is funded, sustained and immediately available to meet the well-being needs of any parent as well as children.

As a service SSfF offers sign posting to specialised services to address any mental health concerns. To address parental low self-esteem, as an organisation we support parents to lessen their isolation and social disconnection; parents are encouraged to participate in activities and take an active role in decision making, planning and participation in our programmes and services. We find over time that this approach improves a parent's general well-being, which has a positive impact upon life at home and in the community.

Within peer sessions we also explored stress management and mindfulness techniques. Parents are supported during interactions with their child by staff who provide guidance and modelling and effective ways to intervene and communicate with their children is explored. This way of working ensures that parents are supported and given access to knowledge about different ways of parenting and using discipline that does not include physical punishment or emotional abusive language.

SSfF asks that the Bill fully reflects that support to parents and families will be necessary to underpin its strategic aims and success; its sustainability; to ensure equal protection is afforded to children in real terms whilst reducing the risk to families of criminalisation.

SSfF adopts innovative approaches to supporting parents, to build trust and facilitate learning about childhood development, nurturing, coping and parenting. Many parents are supported to achieve this whilst overcoming multiple effects and distinct combinations of poverty, exclusion and disadvantage.

SSfF uses play as a medium, it is widely understood to be a "universal language". We harness play as it supports our ethos of nurture, and we are finding that our approach allows a significantly faster timescale (as opposed to previous engagements that did or do not include play and social pedagogy with parents) of relationship building between staff, parents and children – facilitating discussions and openness far quicker. Parents who are struggling, who may be using physical chastisement are referred directly to our wrap around one-to-one family support service for additional support.

SSfF would argue that investment in supporting families (not just a stop gap, one off course of "comply or else" parenting classes, as these are unsustainable) will be a key factor in preventing the criminalisation of parents and the sustainability of the proposed Bill. SSfF would ask the question – "how do you know how to parent, if you don't know how to parent?" SSfF bridges this gap, however we have an ongoing battle to secure funding.

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

Whilst an argument is made that "common sense policing" of the proposed Bill, will prevent criminalisation of parents – SSfF would argue that in terms of prevention and acquiescence to any future legislation by the parents who are using violence against their children – that there needs to be a committed approach to lifelong education of parenting skills, family support, childhood development and real tangible empowerment of children, on a national rather than on a "crisis led referral basis" and from a young age. And this, we believe would require investment.

Case Study

During the 1990's SSfF developed and provided a project for young people with a focus on learning about the childhood development of children aged 0-3; as part of a high-school placement project.

A third-year pupil was a part of the project and at home he had struggled to adapt and steadfastly resented the presence of a new baby sibling to his family and there had been some discord at home. He participated in activities and learned about babies and toddlers. All the activities were inter-active, engaging and participative.

As the young people who participated in the project were sharing what they had learned, the young person who resented his baby sibling suddenly exclaimed "I've just realised my wee brother is a person!"

SSfF recognised at that moment, for that young person there was a realisation and understanding that babies, toddlers, children were autonomous individuals with their own experiences, feelings, dreams and expectations. The sibling baby brother became a human-being with rights.

Subsequent reports on the progress of the young person who engaged in the project, found a dramatic improvement in his relationship with his sibling, and life at home had improved for all.

SSfF would argue that legislation in isolation may not achieve the aims of the proposed Bill. Legislation in tandem with additional support to children, young people and their families will.

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

SSfF would propose that legislation prohibiting the use of physical assault on children, would benefit all groups in society; however during our consultation/discussions the following was highlighted: Age SSfF works alongside children and their families, many of the children are of pre-school age and some of our services support children from birth. It is understood that there are some members of society who actively advocate for the physical assault of children in the form of smacking, they argue that smacking is an effective form of discipline (rather than punishment) as it allows a parent to communicate with their child (in physically violent terms) a concept; rule; or expresses a disapproval that is "too complicated" to explain to a toddler or young child. SSfF rejects this position; we advocate that the use of violence and the threat of violence as a parenting communication tool is wholly unacceptable, that it is a failure in communication on the part of the adult and that physically assaulting any child for any reason should have no place in this society. Very young children are the most vulnerable of our citizens and dependent upon age the least able to communicate effectively their fears; experiences; feelings etc. SSfF would argue that there needs to be a bold approach to implementing any legislation arising from this Bill and wider investment should be directed towards creating a far more empowering environment for children, including those who are very young. Parents must also be empowered to access their own personal and external resources. Disability

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?

Children (including the very young) with challenging behaviors that are not easily understood, or able to be meaningfully interpreted by parents/carers due to an undiagnosed condition or "less visible" disability/disabilities may benefit from the proposed bill; as it would provide a clear definition that physical chastisement cannot be inflicted to manage behavior; particularly in situations whereby challenging behavior may be exerted by a child as he/she attempts to negotiate/manage day to day life without the benefit of diagnosis, or understanding by others of the child's perspective and their own experiences of a condition/disability. Parents have anecdotally disclosed feelings of excessive guilt and shame where they have inflicted punishment upon their children in the past for behaviours that on reflection were directly associated with an unrecognized/unidentified disability rather than (as had been interpreted by the parent) "bad" behavior. Concluding Question 6 SSfF believes that the proposed Bill would have a profoundly positive impact upon all children; particularly those from protected groups.

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

SSfF would advocate that equality is central to the development of the proposed Bill, and it is essential that equal access to contribute to the development of the Bill by members of protected groups is assessed. This will inform and ensure that all possible provisions are made to ensure that individuals from protected groups are invited and have opportunities to be included in; and influence as much as they want/choose to be, in the ongoing development of the Bill.

SSfF has provided services to very young children, young people and families for nearly 30 years; our experience has developed a keen insight into the burden children carry when they want to, need to or feel compelled to report that something is happening or being done to them.

Consideration must be given to this aspect of impact upon children. A child who is being smacked for instance may fear their parent will be "taken away"; "get the jail" or indeed that they themselves may be "taken away" if they report being smacked. The proposed Bill may alleviate the burden of reporting from some children; though presently the majority of physical chastisement seems to occur "behind closed doors". SSfF would request that there is an understanding of the challenges faced by children in this regard and that this is reflected in the proposed Bill, particularly in relation to the burden of reporting/disclosure; child's well-being; and how children will be supported through every stage of any investigation and prosecution.

SSfF would also argue for consideration to be given to the impact of the proposed Bill upon children who are or have been raised with physical assault which is justifiable under current law. SSfF anticipates that if the proposed Bill is enacted that these children will suddenly find themselves in situations where they are being assaulted and in addition to this, they may know without doubt that their parents/main-carers are now breaking the law.

SSfF would suggest that provision, consideration and guidance must be developed as part of the proposed Bill as to how the sudden change/ transition will impact upon the overall well-being of these children who will be the first generation to experience childhood in two Scotlands - the Scotland that smacks children and the Scotland that does not smack children.

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

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Please explain the reasons for your response:

Please refer to SSfF views expressed in response to Question 5, in relation to sustainability.

Page 15: General

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

SSfF would ask, if there has been any consideration given to the potential eventuality of retrospective reporting of assault that may arise from enacted legislation arising from the proposed Bill.

SSfF would support a national campaign supporting the introduction of proposed legislation; however SSfF would propose that any campaign encompasses an approach that targets adults, young people and children, INCLUDING very young children. We would request that any campaign seeks to include all in its development and all in any portrayal of content; and that stereotypes and assumptions are not promoted in any campaign.