

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 If you choose the second or third option, a name is still required, but it will not be published.

The Coalition for Racial Equality and Rights (CRER)

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

CRER strongly advocates human rights and equality. As a rights-based organisation, we are supportive of this proposal, as it ensures the human rights of children are respected and protected in statute.

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

CRER is convinced that ending the common law position of 'justifiable assault' is the best method to achieve equal protection from assault for children. We are also supportive of the proposed Bill's approach to repeal relevant parts of the s.51 of the Criminal Justice (Scotland) Act 2003 to allow the common law offence of assault to apply to children as well as adults. This, we believe, emphasises that there should be no difference in the law concerning protection from assault between children and adults, as all should be afforded the same human rights.

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?

CRER sees the main advantages as those outlined in the consultation document:

- Physical punishment has negative consequences for families, children, and society, and may contribute to increased levels of violence.
- Physical punishment has the potential to escalate into physical abuse.
- Changing the law will bring Scotland more in line with international human rights law and the UN Convention on the Rights of the Child.

We further see this as an advancement of equality for children.

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?

CRER does not anticipate any disadvantages

Page 11: Financial implications

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

No Response

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 enacted with proper consideration for race equality, we believe this proposed bill will have positive outcomes for all children and their families. However, for BME children to enjoy the same benefits as white children, significant consideration must be given to the potential negative impact of institutional racism and the need for intercultural competency training for practitioners. Practitioners may find it challenging to address physical punishment within BME families. A 2009 report from the Joseph Rowntree Foundation found that physical punishment and discipline were the issues mentioned most frequently in relation to cultural challenges faced by practitioners, especially in ethnically diverse areas. This links to an issue we will further detail in response to Question 9, which is that there is no evidence to suggest that rates of physical punishment are higher in BME families in Scotland and the UK, yet a stereotype persists. In some cases, white practitioners may hesitate to challenge physical punishment (and even physical abuse and neglect) for fear of being seen as racist. Despite inquiries and training following cases such as Victoria Climbié and Khyra Ishaq, there are concerns that social workers are not fully equipped to work with families from BME groups, and are wary of addressing cultural and religious practices and beliefs that may be understood as harmful to children. By maintaining a baseline of what is acceptable parenting and what is harmful to children, the hesitancy to address cultural or religious practices can be more readily addressed. As such, removing the 'justifiable assault' defence and guaranteeing equal protection from assault would provide more clarity to practitioners and better equip them to address harmful practices. High quality training is needed to mitigate the fear of being seen as racist, as this can prohibit the protection of children. It is worth noting that failing to protect BME children due to fear of being perceived as racist is in itself a form of institutional racism. In its "State of Children's Rights in Scotland 2016" report, Together notes that there is a need for services that are confident in cultural awareness. CRER believes that intercultural competency training, alongside evidence-based anti-racism training, can fill this gap. Intercultural competency training is a structured approach to building awareness and understanding of different cultural behaviours to create a workforce which is able to positively engage patterns of difference and commonality in values, beliefs, and practices both within the dominant cultural group and across cultural groups. We are expectant that the need for this training and upskilling will be addressed in the proposed bill.

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

Any potential negative or differential impact on BME groups can be addressed by the provision of mandatory intercultural competency training and anti-racism training for practitioners who will likely encounter instances of physical punishment of 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

Page 15: General

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

CRER notes that the consultation document cited a report that identified race as another factor in the prevalence and instances of corporal punishment in studies in the USA. There are other studies that indicate that BME groups are more likely to utilise physical punishment.

However, there are also studies that have found that BME groups are less likely to utilise and be supportive of physical punishment than the white population. For instance, "A study into the views of parents on the physical punishment of children for the Department of Children, Schools, and Families" found that, in England and Wales:

- White parents were more likely than those in BME groups to say that they utilise 'smacking' in disciplining children (20% of BME parents vs. 24% of all parents)
- BME parents are more likely than average to say that they have never smacked any of their children (49% of BME parents vs. 38% of all parents)
- White parents are more likely than BME parents to disagree that smacking a child is as unacceptable as hitting an adult (38% of BME parents vs. 47% of white parents)

Furthermore, the Joseph Rowntree Foundation's "Parenting in multi-racial Britain" states that the finding of its study, "challenges the supposition that physical punishment is more prevalent or harsh in some minority cultures." Despite the stereotype that some ethnic groups utilise harsher punishment, the research found no significant difference between ethnic groups.

We are not aware of any study in Scotland that compares the attitudes towards physical punishment of BME and white parents, and studies conducted in the rest of the UK and in other countries conflict. As such, CRER does not believe that it is useful to compare rates of smacking among ethnic groups. Rather than being a constructive exercise, we believe this may contribute to the exact attitudes and hesitation that prevent or inhibit practitioners from acting on cases which occur in BME families due to cultural stereotyping and fear of being perceived as racist. It may be more beneficial to speak instead about the need for intercultural awareness and anti-racism training, recognising that all children deserve equal protection from assault, regardless of their ethnic background.

Aside from issues related specifically to BME groups, CRER would also ask that consideration be given to how awareness will be raised following passage of this proposed bill, and how children could seek support and make complaints if they are experiencing assault and physical punishment.