

Equal protection from assault for children

Briefing for the Children's
Wellbeing and Schools Bill

February 2025

Background

The Children's Commissioner wants England to be the best place for children to grow up. Every child should be safe, healthy and happy – and not live in fear. However currently in England, children are the only people who are not fully protected in law from assault and battery. The 'reasonable punishment' defence in common law and the Children Act 2004 means that if a parent or carer commits assault against their child, they may be able to argue that it was legitimate and lawful.

What constitutes 'reasonable punishment' is not defined in legislation. While the most serious cases of violence and abuse against children would still be a criminal offence, this defence to a charge of assault creates problematic shades of grey within the law. It leaves parents, carers, professionals – and children themselves, uncertain about what level of violence is acceptable.

The United Nations Committee on the Rights of the Child (UNCRC), which the UK has ratified, is clear that all physical punishment violates children's right to protection from violence.

It is a view shared by the Children's Commissioner that no degree of violence against children is acceptable, and the government must act urgently to remove this legal loophole, and guarantee equal protection from assault for children.

The change needed

The Children's Commissioner is calling for the Children's Wellbeing and Schools Bill to remove the defence of 'reasonable punishment' in England in common law and the Children Act 2004.

Amendments put forward at Committee stage in the House of Commons, widely supported by a cross-party coalition of MPs, would deliver this change.

This law change is sometimes referred to as a 'smacking ban', however the Commissioner believes that describing it in this way trivialises the issue, is misleading about the types of behaviour that would come under scrutiny, and implies the creation of a new offence.

This change would instead remove the defence currently available to parents and carers who have been charged with assault – which by nature are some of the most serious cases of child maltreatment. These

are not *'one-off light smacks'*, but cases in which, but for the defence, a parent could be charged with common assault. Those are cases where the frequency or severity of corporeal punishment mean that children live their lives in fear.

Evidence from elsewhere shows that removal of this defence has not led to increased criminalisation of parents and carers. This change instead serves primarily as a deterrent for physical punishment of children, and provides much-needed clarity that physical assault of children is never acceptable.

Law change alone will of course not create the cultural shift needed to protect children from harm. Families need to understand why this change is in the best interests of children, and to receive non-judgemental support to adapt their disciplinary approaches. This includes ensuring that support is tailored to individual communities and sensitive to different cultural contexts, working in partnership with organisations led by and for the communities they serve.¹

Why is this change needed?

Prevalence of physical assaults of children in England

- Physical punishment of children is in decline, but it is still too common. A 2021 YouGov poll highlighted that while eight in ten British adults say they were physically punished as a child, 62% of parents have physically punished their children.²
- The level and type of punishment used varies, but smacking and spanking is the most common form of punishment among younger people aged 18 to 24 who have been physically punished as a child.³ Nearly a quarter (23%) of this age group were hit with an object/weapon.
- Physical punishment falls along a continuum of violence towards children, and is often a feature in the most serious child protection cases. In the year to 31 March 2024, 83 children in England died due to deliberately inflicted injuries, abuse or neglect (accounting for 2.5% of child deaths in that timeframe). This is equivalent to approximately one child dying every 4 days.

The negative impact of physical punishment on children

Many parents use physical punishment because they hope it will make their children more compliant and better behaved. However, there is little evidence that physical punishment leads to positive developmental outcomes in children.⁴ There is, though, a considerable and growing evidence base on the strong association between physical punishment and negative health and developmental consequences for children, including an increased risk of:

- Poorer quality parent-child relationships.⁵
- Mental health problems and symptoms of trauma.⁶
- Emotional and behavioural difficulties.⁷
- Cognitive and learning difficulties.⁸
- Developing harmful survival strategies, including desensitisation/normalisation of violence and children developing aggressive and offending behaviours themselves.⁹
- Being a victim of physical abuse and serious assaults, and sustaining injuries requiring medical attention.¹⁰

Waning public support for physical punishment of children

- The number of adults in England who think smacking, hitting, slapping, or shaking a child is not acceptable has risen from 67% in 2023 to 71% in 2024.^{11 12}

Would any use of force on a child be defensible with this law change?

Not defensible with this law change	Defensible with this law change
Physical assaults / punishment of children, including smacking, spanking, hitting, beating, and corporal punishment with weapons such as belts, sticks or canes. The frequency and severity of this type of assault / punishment would always be taken into account.	Reasonable use of force to prevent a child hurting themselves or others, and to control their behaviour. This might include restraint or segregation. There is legal precedent for this in schools and other settings. ¹³

Has this change been introduced elsewhere, and what was the impact?

Across the world, 65 countries have full prohibition of physical punishment of children, starting with Sweden in 1979 and most recently in Barbados, Laos and Tajikistan.^{14 15} A further 27 countries have committed to reforming their laws to achieve a complete legal ban.¹⁶ This includes countries within the United Kingdom: children in Scotland and Wales have the same protection from assault as adults. Scotland became the first nation in the UK to remove the defence against physical punishment in 2020, with Wales following two years later.

Learning from Scotland and Wales – improving awareness and support, rather than increasing criminalisation

As would be the intention in the English legal context, in Scotland and Wales no new offence was created – but the ‘reasonable punishment’ defence was removed.

Since this change was made in Wales, physical punishment as an identified factor in social services referrals has increased slightly, but overall the proportion of incidents where physical punishment was the only factor has remained steady (around half of all referrals).¹⁷

Data on prosecutions in Scotland is not published,¹⁸ but in Wales there were fewer than 5 prosecutions of parents in the first year following the law change, with voluntary out-of-court parenting support the most common response. During the first year following the Act coming into force (2022-23), there were 130 referrals for out-of-court parenting support across Wales by the police.¹⁹ Of the 130 referrals, 120 individuals chose to take up the offer of parenting support.²⁰

The Children's Commissioner is calling for the Children's Wellbeing and Schools Bill to remove the defence of 'reasonable punishment' in England in common law and the Children Act 2004.

There must also be an awareness-raising campaign for this law change, so parents understand why this is in the best interests of children, and children are aware of their equal right to protection from assault.

Amendments put forward at Committee stage in the House of Commons, widely supported by a cross-party coalition of MPs, would deliver this change.

Support should be put in place for families to adapt disciplinary approaches – tailored to different communities and cultural contexts. Support must also be provided to children who have been harmed emotionally or physically by this type of punishment.

References

¹ For example, Africans Unite Against Child Abuse (AFRUCA) are a supporter of the Children Are Unbeatable! Alliance, stating *"Section 58 dangerously encourages parents committed to physical punishment, or those with the intention of harming children, to use forms of it which although highly dangerous, do not leave marks on victims. In addition, the specific vulnerability of black and African Children needs to be highlighted. This is simply because black skin pigmentation and tone does not easily show bruising and marks unless extreme force is applied. Section 58 therefore hampers protection for children of black and African origin."* Africans Unite Against Child Abuse (AFRUCA) offers one-to-one positive training for parents of Black, Asian and minority ethnic children to improve their skills and ability to provide a safer and happier home environments for their children.

Source: Children are Unbeatable! Alliance, Organisations and individuals supporting the aims of Children Are Unbeatable!, [Link](#).

Source: AFRUCA SAFEGUARDING CHILDREN. [Link](#).

² YouGov, Smacking: Parents who were physically punished as children are more likely to punish their children, 2021, [Link](#).

³ Ibid.

⁴ Gershoff, E. T. & Lee, S. J. (eds.) Ending the physical punishment of children : a guide for clinicians and practitioners / edited by Elizabeth T. Gershoff and Shawna J. Lee. Washington, DC: American Psychological Association, p.3, 2020.

⁵ Public Policy Institute for Wales, Parental Physical Punishment: Child Outcomes and Attitudes, 2018, p.4 [Link](#).

⁶ Gershoff, E. T. & Grogan-Kaylor, A., Spanking and child outcomes: Old controversies and new meta-analyses. Journal of Family Psychology, 30, pp.453-469, 2016.

⁷ Scott S, Lewsey J, Thompson L, Wilson P, Early parental physical punishment and emotional and behavioural outcomes in preschool children. Child Care Health and Development, 40(3), pp.337-345, 2014.

⁸ Gershoff, E. T., Corporal punishment by parents and associated child behaviours and experiences: A meta-analytic and theoretical review. Psychological Bulletin, 128, pp.539-579. 2002.

⁹ Ibid.

¹⁰ Heilmann, A., Kelly, Y. & Watt, R., Equally protected? A review of the evidence on the physical punishment of children, pp.34-36. 2015. [Link](#).

¹¹ YouGov and NSPCC, YouGov / NSPCC Survey Results, 2023, [Link](#).

¹² YouGov and NSPCC, YouGov / NSPCC Survey Results, 2024, [Link](#).

¹³ Department for Education, Use of reasonable force in schools, 2013. [Link](#). Note - the government is currently updating its guidance on use of force in schools.

Youth Custody Service, Ministry of Justice and HM Prison and Probation Service, Use of force, restraint and restrictive practices in the children and young people secure estate, 2023. [Link](#).

¹⁴ RCPCH, Equal protection from assault in England and Northern Ireland: The health, education and legal case for legislative change to remove the "reasonable punishment" defence and to prohibit all physical punishment of children, 2024, [Link](#).

¹⁵ End Corporal Punishment, 2024: significant progress to end corporal punishment of children despite complex global environment, 2024. [Link](#).

¹⁶ Ibid.

¹⁷ Welsh Government, The Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020: data release for March 2022 to March 2023, 2024. [Link](#).

¹⁸ The Times, 'No record' of parents who have broken Scotland's smacking ban, 2021. [Link](#).

¹⁹ Welsh Government, The Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020: data release for March 2022 to March 2023, 2024. [Link](#).

²⁰ Welsh Government, The Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020: data release for March 2022 to March 2023, 2024, [Link](#).



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