



SPICe Briefing

Pàipear-ullachaidh SPICe

Children (Equal Protection from Assault) (Scotland) Bill

Nicki Georghiou

The aim of the Children (Equal Protection from Assault) Scotland Bill is to help bring an end to the physical punishment of children by parents, and others caring for or in charge of children. Parents can currently use a defence of 'reasonable chastisement' or 'justifiable assault' when charged with the assault of a child. Such a defence does not apply when the assault is against an adult. The Bill aims to provide equal protection from assault to children, as with adults. It also aims to drive behaviour change in Scotland so that parents use less harmful methods of disciplining their children.



Contents

Executive Summary	3
Introduction	4
Current law on assault in Scotland	5
UN Convention on the Rights of the Child	7
Definition of physical punishment	8
Scottish Government policy on children's rights	9
Current laws in the rest of the UK and internationally	11
Research on the physical punishment of children	14
What is the impact of physical punishment on children?	17
Children's view of smacking	18
Consultation on the proposed Bill	20
Views on the proposed Bill	20
Impact on equality groups	22
Opinion polls on the physical punishment of children	24
The Bill	25
Alternatives to the Bill	26
Costs of the Bill	26
Bibliography	28

Executive Summary

The aim of the Children (Equal Protection from Assault) (Scotland) Bill is to help bring an end to the physical punishment of children by parents, and by those caring for, or in charge of children.

It is a Members' Bill, introduced by John Finnie MSP, on 6 September 2018.

The Policy Memorandum uses the definition of physical punishment, sometimes referred to as corporal punishment, used by the UN Committee on the Rights of the Child. It includes hitting, such as smacking, slapping and smacking with a hand or an implement. It can also involve kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion.

Under common law, an attack on one person by another is an assault, whether the person attacked is a child or an adult.

However, some cases of assault against children can currently be justified in Scotland. A person charged with assault of a child can claim the defence of 'reasonable chastisement' or 'justifiable assault' when they have used physical force to discipline a child.

The Bill aims to provide children with the same protection from assault as adults, by abolishing the defence of reasonable chastisement. It does not create a new criminal offence.

The First Minister, Nicola Sturgeon MSP, has said that the Scottish Government will support the Bill.

There are currently 54 countries that prohibit the physical punishment of children; a further 56 countries have committed to reforming their laws to effectively ban the physical punishment of children.

The UN Committee on the Rights of the Child has repeatedly called on the UK to give children equal protection from assault to ensure compliance with the UN Convention on the Rights of the Child.

John Finnie's consultation on a proposed Bill showed 75% of respondents were in favour of the proposal, while 25% opposed it:

- Those in favour of the Bill argue that physical punishment can cause long term harm to children and that a change in law is needed to stimulate behaviour change.
- Those against the Bill argue that smacking is not the same as assault, that the current law is sufficient, and that state interference in private family life is not welcome.

Two opinion polls carried out in Scotland show that just over half the population think that smacking should not be banned.

The views of children on smacking suggest that smacking hurts, upsets them, and does not always stop bad behaviour.

Introduction

The Children (Equal Protection from Assault) (Scotland) Bill ¹ (the 'Bill'), is a Members' bill, introduced by John Finnie MSP on 6 September 2018.

The aim of the Bill is to "help bring to an end the physical punishment of children by parents and others caring for or in charge of children". ²

The Bill provides children with equal protection from assault by abolishing the defence of 'reasonable chastisement' that parents, and others caring for or in charge of children, can use to justify the use of physical force to discipline a child. This will mean that a person charged with the assault of a child will no longer have the defence, in either criminal or civil proceedings, that the use of force constituted 'reasonable chastisement' or 'justifiable assault'. ²

The Policy Memorandum ² to the Bill states that a further objective is to drive behaviour change in Scotland. It is expected that the Bill will prompt parents to use 'less harmful' methods of disciplining their children.

The Scottish Government said, in its Programme for Government 2018-19, ³ that it would:

“ support the removal of the defence to the physical punishment of children proposed by the Member's Bill being developed by John Finnie MSP.”

Current law on assault in Scotland

Under the common law, an attack upon one person, by another, is an assault whether the person attacked is an adult or a child. Authors of the *Criminal Law in Scotland* (fourth edition) ⁴, Chalmers and Leverick, describe assault in the following terms:

“ There need not be substantial violence, and indeed an extremely trivial attack is sufficient. It is an assault to slap someone on the back, even perhaps to tap him on the shoulder, and to spit on someone 'is an assault in the eye of the law'. Injury to the victim is unnecessary: it is an assault to kiss a girl without her consent. In practice, however, prosecutions are not brought where the assault does not involve any significant violence or injury, unless the circumstances are special.”

Some cases of assault against children can currently be justified in Scotland. This is not the same for assault against adults. It is argued, therefore, that children in Scotland do not have the same legal protection from assault as adults. This is similar to the situation in [England, Wales and Northern Ireland](#).

Criminal Justice (Scotland) Act 2003

The Criminal Justice (Scotland) Act 2003 (s.51) ⁵ reformed the law in relation to the physical punishment of children. The Act sets out a list of factors that a court must have regard to in determining whether a punishment by a parent or carer can be justified:

- (a) the nature of what was done, the reason for it and the circumstances in which it took place;
- (b) its duration and frequency;
- (c) any effect (whether physical or mental) which it has been shown to have had on the child;
- (d) the child's age; and
- (e) the child's personal characteristics (including, without prejudice to the generality of this paragraph, sexⁱ and state of health) at the time the thing was done.

Section 51(3) prohibits the following assaults from being justifiable:

- (a) a blow to the head;
- (b) shaking; or
- (c) the use of an implement

These reforms were made in response to a European Court of Human Rights ruling in 1998. ⁷ In the case of *A v the UK*, the European Court ruled that, because of the way the concept of 'reasonable chastisement' was applied, the law in the UK had failed to protect a

ⁱ The Explanatory Notes to the Criminal Justice (Scotland) Act 2003 state: "An example of how a court might take sex into account would be where it considers treatment which may be additionally humiliating, for example because a child's bare bottom is beaten in front of strangers of the opposite sex". ⁶

boy from 'inhuman or degrading treatment', in the form of severe beatings.⁸ This was found to be in contravention of Article 3 of the European Convention on Human Rights.⁹ Article 3 of the Convention is the Prohibition of Torture. It states:

“ No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

As a result of this ruling, the then Scottish Executive launched a consultation in 2000 on changing the law to take account of the Court's judgment.⁸ Following the consultation, section 51 of the Criminal Justice (Scotland) Act 2003 changed the law by prohibiting some types of assault, but retained in law a defence of 'justifiable assault' of a child under the age of 16, by their parent or carer with regard to certain factors.

Section 51 does not deal with situations where 'assault' on children and adults may be justified in other settings, such as where physical force is required in administering emergency medical treatment or surgery.²

Other legislation prohibits the use of corporal punishment in certain settings - foster care, kinship care, day care and childminding. For example, s.16 of the Standards in Scotland's Schools etc Act 2000 provides that there is no justification for corporal punishment by a member of staff to a pupil.

Children and Young Persons (Scotland) Act 1937

Under Section 12 of the 1937 Act¹⁰, it is an offence for a person with parental responsibilities for a child or young person under the age of 16 to 'wilfully' ill-treat, neglect, abandon, or expose him or her, 'in a manner likely to cause him unnecessary suffering or injury to health'.

The Criminal Justice (Scotland) Act 2003 removed references to assault in the 1937 Act because these were made unnecessary by the 2003 Act and by common law.¹¹ The 2003 Act also removed an explicit statement in the 1937 Act that parents and others still had the right to administer physical punishment.

UN Convention on the Rights of the Child

The [UN Convention on the Rights of the Child](#) (1989) sets out the fundamental human rights of children and young people. It was ratified by the UK in 1991.

Article 19 (1) of the UNCRC states:

“ States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. ”

The Committee on the Rights of the Child monitors implementation of the UNCRC for each State Party that has ratified it, every 5 years. The Committee is an elected body of international experts.

In addition to monitoring, the Committee can also make 'general comments' relating to the Committee's interpretation of specific provisions in the UNCRC. The UNCRC makes no explicit reference to corporal punishment, but in 2006 the Committee provided further interpretation of the UNCRC with regard to corporal punishment: ¹²

“ 20..... the Convention, like all human rights instruments, must be regarded as a living instrument, whose interpretation develops over time. In the 17 years since the Convention was adopted, the prevalence of corporal punishment of children in their homes, schools and other institutions has become more visible, through the reporting process under the Convention and through research and advocacy by, among others, national human rights institutions and non-governmental organizations (NGOs).
21. Once visible, it is clear that the practice directly conflicts with the equal and inalienable rights of children to respect for their human dignity and physical integrity. The distinct nature of children, their initial dependent and developmental state, their unique human potential as well as their vulnerability, all demand the need for more, rather than less, legal and other protection from all forms of violence. ¹² ”

With specific reference to Article 19, the Committee said:

“ There is no ambiguity: “all forms of physical or mental violence” does not leave room for any level of legalized violence against children. Corporal punishment and other cruel or degrading forms of punishment are forms of violence and States must take all appropriate legislative, administrative, social and educational measures to eliminate them. ¹² ”

The Committee on the Rights of the Child recommended, in 1995, 2002 and 2008, that the UK give children equal protection from assault. ¹³ The Committee made the following recommendation in 2016:

“ 41. With reference to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and its previous recommendations, the Committee urges the State party, in all devolved administrations, overseas territories and Crown dependencies, to: (a) Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as “ reasonable chastisement ” ; ... (c) Strengthen its efforts to promote positive and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, with a view to eliminating the general acceptance of the use of corporal punishment in child-rearing. 14 ”

At the time this recommendation was made, the Scottish Government had already set out its position, in response to a 'list of issues'.¹⁵ It said that it "does not support 'smacking' as a way of disciplining children", and that it encouraged parents to avoid this. The Scottish Government described the law relating to justifiable assault, and then referred to two cases where parents had been convicted of an offence after hitting their children.¹⁵ However, no commitment was made to change the law. Since then the Scottish Government has changed its position.

John Finnie MSP argues that Scotland is at odds with international human rights law by not offering children the same protection as adults.² He goes on to quote Professor Sir Michael Marmot who wrote the foreword of the Equally Protectedⁱⁱ report:

“ There is an urgent need for Scotland and the rest of the UK to comply with international human rights law and to prohibit all forms of physical punishment. 13 ”

Definition of physical punishment

The definition of physical punishment referred to in the consultation for the Bill, and in the Bill's Policy Memorandum, is the definition used by the UN Committee on the Rights of the Child. It defines corporal or physical punishment as:

“ ... any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting ('smacking', 'slapping', 'spanking') children, with the hand or with an implement - a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. 12 ”

ii A review of the evidence of physical punishment on children, commissioned by NSPCC Scotland, Children 1st, Barnardo's Scotland, and the Children and Young People's Commissioner for Scotland.

Scottish Government policy on children's rights

The Scottish Government has indicated its support for John Finnie's Bill.

In September 2017 the First Minister said:

“ I also confirm today that, although it is not our proposal and parties might give their members a free vote on the issue, the Scottish Government will not oppose John Finnie's proposal to prohibit the physical punishment of children. It is worth noting that approximately 50 countries around the world—including France, Germany, Sweden, Norway, Denmark and the Republic of Ireland, to name a few—have already successfully made that change. ¹⁶ ”

Prior to this, the current Scottish Government, (and previous administrations), had not confirmed it would meet the recommendations of the UN Committee on the Rights of the Child to prohibit the physical punishment of children. This is in contrast to its development of children's policies that are rooted in the UNCRC.

Getting it Right for Every Child (GIRFEC)

GIRFEC is the Scottish Government's policy to support families by making sure children and young people receive the right help, at the right time, from the right people. The aim is to help children and young people "grow up feeling loved, safe and respected so that they can realise their full potential". It is underpinned by the principles set out in the UNCRC. The GIRFEC approach is:

- child-focused - ensuring that the child and their family is at the centre of decision-making and the support available to them
- based on an understanding of the well-being of a child in their current situation - taking into account wider influences on a child, and their developmental needs
- based on tackling needs early - to avoid bigger problems developing
- requires joined-up working - it is about children, young people, parents, and the services they need, working together in a co-ordinated way to meet their specific needs and improve their wellbeing.

Children and Young People (Scotland) Act 2014

The Children and Young People (Scotland) Act 2014 requires all public authorities in Scotland to report on the steps taken to implement the UNCRC. The first reports are due in 2020. The 2014 Act also requires Scottish Ministers to report to the Scottish Parliament on progress achieved on children's rights since 2015. This is required every three years and the first report was published in 2018. ¹⁷

The Child Rights and Wellbeing Impact Assessment (CRWIA) was developed to support Scottish Ministers in meeting their duties under the 2014 Act, and in relation to the UNCRC. The CRWIA helps the Scottish Government assess whether its policies and

legislation will realise children's rights and help protect and promote the wellbeing of children and young people.

Incorporation of the UN Convention on the Rights of the Child

The Scottish Government states: "[we want to make Scotland the best place in the world for a child to grow up](#)". It says that recognising, respecting and promoting the rights of children and young people is essential to achieving this.

The First Minister said in 2017 that the Scottish Government would consider how to

“ ...embed the principles of the United Nations Convention on the Rights of the Child into policy and legislation, including the option of full incorporation into domestic law. 16 ”

In the Programme for Government 2017-18 ¹⁸, a commitment was made to undertake an audit on the most practical and effective way to further embed the principles of the UNCRC into policy and legislation, "including the option of full incorporation into domestic law".

In the most recent Programme for Government 2018-19, the Scottish Government confirmed its commitment on incorporation of the UNCRC:

“ The Scottish Government is already committed to ensuring that the principles of the UN Convention on the Rights of the Child (UNCRC) are embedded into policy and legislation in an effective and practical way. In the last Programme for Government we committed to undertake a comprehensive audit on the most effective and practical way to further embed those principles. The audit is well under way and will continue. Now, building on that work, we will incorporate the principles of the UN Convention on the Rights of the Child into domestic law. ³ ”

If this Bill falls, it could be argued that its aims might still be fulfilled by the Scottish Government's commitment to incorporate the UNCRC into Scots law. With reference to Article 19 of the UNCRC and General comment No 8 from the Committee on the Rights of the Child, if the Bill falls, a prohibition on parents physically punishing their children might merely be delayed a few years.

Current laws in the rest of the UK and internationally

Rest of the UK

England and Wales

Parents in England and Wales can use the defence of 'reasonable punishment' under the Children Act 2004 (s.58). This applies as long as the defendant is charged with common assault, the victim is a child and the defendant is the parent of the child, or a person acting in loco parentis.¹³ Section 58 of the 2004 Act states: 'battery of a child causing actual bodily harm to the child cannot be justified in any civil proceedings on the ground that it constituted reasonable punishment'.

Wales

The Welsh Government said it would seek cross party support to legislate to end the defence of reasonable punishment in its 2016 Programme for Government.¹⁹ A consultation was launched in January 2018.²⁰ The consultation found just over half of respondents (50.3%) agreed, and 48.1% disagreed, with the statement that the legislative proposal will achieve the aim of protecting children's rights; 1.5% said "don't know".

The First Minister announced that the Welsh Government would introduce a Bill to remove the defence of reasonable punishment in year three of the legislative programme (between September 2018 and July 2019).²¹

England

There have been calls to introduce a ban on the physical punishment of children in England²², but there are no plans to date.

Northern Ireland

Northern Ireland has similar legal provisions to those in England and Wales. The defence of reasonable punishment is regulated in article 2 of the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006. The Policy Memorandum to the Bill states that this effectively enacted section 58 of the Children Act 2004 in Northern Ireland.²

Rest of the world

The [Global Initiative to end all Corporal Punishment of Children](#) promotes the universal prohibition and elimination of all corporal punishment of children. It provides data on the state of prohibition around the world, illustrating where it is prohibited in the home, in schools and in care settings.

In 1979, Sweden became the first country in the world to prohibit the physical punishment of children across all settings. By 2018, 54 countries had prohibited the physical punishment of children in all settings, with 56 more countries committed to reforming their laws to achieve a complete legal ban in all settings.

Table 1. Timeline of states prohibiting all corporal punishment of children, including in the home ²³

2018	Nepal	2004	Romania, Ukraine
2017	Lithuania	2003	Iceland
2016	Mongolia, Montenegro, Paraguay, Slovenia	2002	Turkmenistan
2015	Benin, Ireland, Peru	2000	Germany, Israel, Bulgaria
2014	Andorra, Estonia, Nicaragua, San Marino, Argentina, Bolivia, Brazil, Malta	1999	Croatia
2013	Cabo Verde, Honduras, TFYR Macedonia	1998	Latvia
2011	South Sudan	1997	Denmark
2010	Albania, Congo (Republic of), Kenya, Tunisia, Poland	1994	Cyprus
2008	Liechtenstein, Luxembourg, Republic of Moldova, Costa Rica	1989	Austria
2007	Togo, Spain, Venezuela, Uruguay, Portugal, New Zealand, Netherlands	1987	Norway
2006	Greece	1983	Finland
2005	Hungary	1979	Sweden

Europe

Sweden

Corporal punishment was explicitly prohibited in the home in 1979. The Global Initiative refers to research in 2011 that showed 92% of parents thought it was wrong to beat or slap a child. The same research found that 3% had struck their child at some point in the past year, compared to 28% in 1980. A thirty year review of the change in law showed that there has been a consistent decline in the use of physical punishment, and the number of adults who are in favour of it. However, the reporting of cases of assault on children has increased since the 1980s, which may reflect less tolerance towards the physical punishment of children. ²⁴

Ireland

Ireland had a common law defence of 'reasonable chastisement', which was repealed in 2015, under the Children First Act 2015. This came into effect in December 2015. According to the Global Initiative, the prohibition came after more than a decade of mounting human rights pressure, to give children in Ireland equal protection from assault. ²⁵

France

Corporal punishment is lawful in the home under the 'right of correction' in customary law in France. Since 2013 there has been an increased effort to effectively ban the physical punishment of children in all settings. French MPs voted in favour of a Bill to ban physical punishment in the home in November 2018. ²⁶ The Bill also requires the government to produce a report on the prevalence of corporal punishment in France by 1 September 2019, including how it will raise awareness among parents and relevant professionals. The Bill still needs to be approved by the Senate. ²⁷

Rest of the world

New Zealand

In 2007, the legal defence for the use of reasonable force 'by way of correction' was repealed. It was replaced by a new provision allowing parents to use reasonable force for the purposes of protection from danger or prevention of damage to people or property. The law states that nothing justifies the use of force for the purpose of correction.

Implementation of the law is monitored closely and supported by the promotion of positive parenting. The Government reported to the Committee on the Rights of the Child in 2015, that, between 2007 and 2012, the police found no significant issues with enforcement of the law.

Research on attitudinal change over the last three decades found a substantial decline in approval of physical punishment from 89% in 1981, 58% in 2008, to 40% in 2013.²⁸

A two year review of police activity since the legislation was enacted found an increase in reported cases of 'smacking' or 'minor acts of physical discipline'. However, there was a negligible increase in the number of prosecutions.²⁹

Canada

Physical punishment is still legal in Canada, under Section 43 of the Criminal Code which allows the use of force 'by way of correction'. A bill to repeal section 43 was under discussion in the Senate in May 2018. Despite this, data has shown a decline in the reported use of physical punishment for children aged 2-5, with a decrease from about 50% in 1994/1995 to about 25% in 2008/2009. Reported prevalence for 6-9 year olds decreased from 38% in 1994/1995 to 23% in 2008/2009.¹³

Research on the physical punishment of children

The report, *Equally Protected*, considered the evidence on the physical punishment of children.¹³ It was jointly commissioned by the NSPCC Scotland, Children 1st, Barnardo's Scotland, and the Children and Young People's Commissioner for Scotland. The authors of the report reviewed studies from the UK, the USA, Canada, Italy, Germany and Sweden. The reported prevalence of physical punishment ranged from 45% in Sweden to between 70% and 80% in the UK.

Prevalence

Evidence on the prevalence of physical punishment against children in Scotland and the UK is limited. The available evidence in Scotland comes from the longitudinal study [Growing up in Scotland](#) (GUS), as well as the [Millennium Cohort Study](#) (MCS) which considered the four countries of the UK.

Table 2 below has been adapted from Table 1 in the *Equally Protected* report.

The data reviewed suggests that the prevalence of smacking reported by parents is at its highest when children are aged between 3 and 7 years old, and that the prevalence decreases as children get older. It also shows that some parents may not view smacking as a 'good thing', but sometimes it is the "only thing that will work".

Table 2. Prevalence of physical punishment on children in Scotland and UK

Prevalence of physical punishment	Study population
Parental endorsement of smacking: “it may not be a good thing to smack, but sometimes it is the only thing that will work” Agree and strongly agree: <ul style="list-style-type: none"> • Child cohort (born 2002/2003) 42% • Birth cohort (born 2004/2005): 30% 	Growing Up in Scotland study ³⁰ : 1st sweep; 2,858 children aged 34.5 months = child cohort; 5,217 children aged 10.5 months = birth cohort; parental report Data collected 2005/2006
Child cohort (born 2002/2003) Ever used smacking: <ul style="list-style-type: none"> • Respondent: 34% • Partner: 37% Smacking not very / not at all useful: <ul style="list-style-type: none"> • Respondent: 84% • Partner: 79% Birth cohort (born 2004/2005) Ever used smacking: <ul style="list-style-type: none"> • Respondent: 16% • Partner: 16% Smacking not very / not at all useful: <ul style="list-style-type: none"> • Respondent: 87% • Partner: 84% 	Growing Up in Scotland study ³¹ : 2nd sweep; 1,998 children aged 46.5 months = child cohort; 3,765 children aged 22.5 months = birth cohort; parental report Data collected 2006/2007
“How often do you smack (child) when he/she is naughty?” Any smacking reported: <ul style="list-style-type: none"> • Age 5: 58% • Age 7: 48% 	Millennium Cohort Study: children born between 2000 and 2002; sweep 3 (1,752 children aged 5 years) and sweep 4 (1,555 children aged 7 years) 5 year olds 58% ³² 7 year olds 48% ³³
“My parents smack me when I have done something wrong” <ul style="list-style-type: none"> • Any smacking (child report, age 7, born 2004/2005): 56% • (prevalence for parent reported smacking not reported) 	Growing Up in Scotland study ³⁴ : 7th sweep; 3,279 children aged 7 years and 10 months = birth cohort born 2004/2005
UK wide “How often do you smack (child) when he/she is naughty?” Any smacking reported: <ul style="list-style-type: none"> • Age 3: 66% • Age 5: 56% • Age 7: 48% • Never reported smacking at any age: 20% 	Millennium Cohort Study ³⁵ : children born between 2000 and 2002 followed from age 3 to age 7 years; N= 6,674; maternal report

The authors of Equally Protected also reported that the prevalence of physical chastisement is declining over time and that public attitudes have shifted. They also found ‘convincing evidence’ that declines in physical punishment are accelerated in countries that have prohibited its use, and that “such laws have important symbolic value”.

The authors also note that legal bans in other countries have been introduced without a majority of public support, and that there is evidence that the combination of legislation with public awareness campaigns leads to a change in public attitudes.

Other discipline approaches

One of the GUS reports presented data (collected 2006/2007) on the different discipline techniques used by parents.³¹ It reported that smacking was the least likely discipline technique to be used by parents (Table 3). It also reported that smacking was viewed as the least useful of a range of discipline techniques, based on views of parents from the birth cohort (22.5 months) and the child cohort (46.5 months old) (Table 4).

Table 3. Discipline approaches respondents and partners ever used with cohort child by cohort (couple households only)

	Birth cohort (22.5 months) (%)		Child cohort (46.5 months) (%)	
	Respondent	Partners	Respondent	Partners
Time out	29.7	28.3	59.7	51.8
Reward system/sticker chart	8.0	13.5	55.7	53.9
Ignoring bad behaviour	67.1	56.8	68.5	58.6
Smacking	15.9	16.3	33.8	37.1
Naughty step/room/corner	34.1	34.4	65.4	66.0
Raising your voice or shouting	63.4	65.5	75.6	79.6
Removing treats or privileges	29.1	40.1	73.8	75.9
None of these	7.5	8.6	0.9	1.0

Adapted from Table 7.2 Bradshaw, 2008³¹

Table 4. Respondent and partner's views on usefulness of discipline techniques by cohort (all who have heard of techniques, couple households only)

	Birth cohort (22.5 months) (%)		Child cohort (46.5 months) (%)	
	Respondent	Partners	Respondent	Partners
Time out				
Very/fairly useful	38.9	42.1	74.9	73.2
Not very/not at all useful	58.4	54.3	22.0	23.1
Reward system/sticker chart				
Very/fairly useful	25.6	34.8	78.2	77.5
Not very/not at all useful	70.8	61.3	17.7	18.4
Ignoring bad behaviour				
Very/fairly useful	73.3	63.4	64.4	57.3
Not very/not at all useful	25.1	34.5	34.2	40.8
Smacking				
Very/fairly useful	10.5	13.0	13.3	18.5
Not very/not at all useful	87.2	84.0	84.0	78.7
Naughty step/room/corner				
Very/fairly useful	43.3	49.8	75.1	78.1
Not very/not at all useful	53.7	47.4	21.7	19.5
Raising your voice or shouting				
Very/fairly useful	38.8	46.5	32.6	44.9
Not very/not at all useful	60.4	52.6	67.1	54.2
Removing treats or privileges				
Very/fairly useful	42.5	51.0	82.4	84.5
Not very/not at all useful	55.3	46.9	15.8	14.2

Adapted from Table 7.4 Bradshaw, 2008³¹

What is the impact of physical punishment on children?

Two reviews of the existing research on the impact of the physical punishment of children report similar findings: ³⁶ ¹³

- Physical punishment is not effective in achieving parenting goals. There is little evidence that it improves children's behaviour in the long term.
- There is strong and consistent evidence of a link between physical punishment and childhood aggression and antisocial behaviour.
- Physical punishment exacerbates existing problem behaviour.
- Childhood physical punishment is linked to adult aggression and antisocial behaviour.
- Children who are physically punished are at greater risk of serious injury and physical abuse.
- Physical punishment is related to depressive symptoms and anxiety among children.

- Other negative outcomes that were shown to be related to physical punishment are parent-child conflict, adult mental illness and adult substance abuse.

The authors of Equally Protected note that there is an argument that physical punishment is not harmful in the context of an otherwise loving family environment, but state:

“ However, the majority of studies that tested this hypothesis found that the harmful effects of physical punishment were the same even when levels of maternal warmth were high – the ‘loving smack’ might be a myth. ¹³ ”

Children's view of smacking

The Children and Young People's Commissioner Scotland commissioned questions on physical punishment in the 2016 Ipsos MORI Young People in Scotland surveyⁱⁱⁱ. ² The survey sought the views of over 1,500 secondary school pupils across Scotland. Key findings included:

- over half of pupils felt it was not OK for parents to physically punish children
- younger pupils were more likely to say it was not OK for parents to physically punish children
- 62% of pupils felt that physical punishment could be harmful to children
- 65% of pupils think that there should be help for parents to find alternatives to physical punishment.

In 2016, the Scottish Youth Parliament consulted 72,744 young people across Scotland to inform their future work priorities; of these 82% agreed with the statement: "All physical assault against children should be illegal." ²

Research was undertaken with children in England in 1997, ³⁷ and with children in Wales in 2003, ³⁸ to hear their views on smacking. The key messages from both were broadly similar:

- Smacking is hitting – often with some degree of force.
- Smacking hurts.
- Children are smacked because they are naughty. Examples of naughty behaviour giving rise to smacks included not listening, being rude, running away, and lying.
- Parents and other relatives smack children.
- Children usually get smacked indoors, and most often get smacked on their bottom, arm or head.
- Children talked about the considerable physical and emotional impact of being smacked. Smacking physically hurts children and has an emotional impact. The children did not view smacking as ‘trivial’.

iii Unpublished

- Most commonly after a smack, children cry and become upset; they go or are sent to spend time alone.
- Smacking hurts a child's feelings, it doesn't always stop bad behaviour, it can encourage children to smack other children and can be perceived as humiliating to children.
- Children associated smacking with angry parents. Some of the older children said that adults felt regret after they smacked a child.
- The majority of children did not see smacking as something adults do to each other – adults are perceived as liking each other.

Consultation on the proposed Bill

On 12 May 2017, John Finnie MSP launched a consultation for a proposed Bill to give children equal protection from assault.³⁹ The consultation closed on 4 August 2017. It set out the legislative and policy context in Scotland, with reference to the rest of the UK, and international practice. It also referred to evidence¹³ that the use of physical punishment against children appears to be decreasing, and that public opinion against a ban on physical punishment is shifting.

The consultation document was published on the Scottish Parliament's website, and allowed for people to respond online via a survey.

John Finnie MSP sent copies of the consultation to:

- all 32 Scottish local authorities
- 12 charities
- 7 equality organisations
- 12 police, legal and human rights bodies
- 20 medical and care profession organisations

In total, the consultation received 660 responses:⁴⁰

- 84 (13%) from organisations, including 20 from public sector bodies, and 52 from third sector organisations
- 576 (87%) from individuals, including 6 from individual politicians, 117 from professionals with experience in the subject matter, 21 from academics with expertise in the subject matter, and 432 from members of the public.

The submissions to the consultation are available on John Finnie's [Equal Protection](#) webpage.

Views on the proposed Bill

A majority of the respondents, 493 (75%), were supportive of the proposal to introduce a Bill, while 166 (25%) were opposed to a Bill. Among the organisations alone, support for the Bill was higher, with 78 (93%) in favour of a Bill.

There was strong support for arguments made in the consultation paper, including:

- children should have the same rights as adults in being protected from assault
- physical punishment is not effective and can lead to long-lasting emotional and physical difficulties and damage
- a change to the law is required to stimulate and ensure that the required behaviour and societal changes take place

- the proposal is required to ensure Scotland complies with human rights legislation and obligations and to meet the Scottish Government's ambition for Scotland to be the best country in the world to grow up in.

Those opposed to the Bill gave reasons, including:

- smacking is not the same as assault or abuse and should not be considered as such
- the current law is sufficient to protect those at risk
- state interference in private family life is not welcome or needed
- physical punishment is effective in loving families and environments
- without physical punishment as an option for discipline and guidance, society will suffer negative consequences as a result of unruly children not having learnt right and wrong and boundaries of behaviour.

Further views from the consultation

Opposition to the Bill

Dr Stuart Waiton⁴¹ argued that the Bill is confused because it equates 'violence' against adults and children as equivalent, and that this undermines the 'civilised distinction between adults and children'.

“ This can be seen in the confused idea of children's rights which in essence has little to do with classical liberal ideas about rights as freedoms and is more about protection, by professionals and the state, than it is about rights for children. Children are not free, as adults are, and do not have rights. ”

Dr Waiton further argues that the idea of what harms a child has expanded exponentially over the past few decades. Smacking was previously understood to be of little or no significance to a child's life, but has now become re-represented as a form of abuse.⁴¹

Support for the Bill

Professor Elaine E Sutherland, Professor of Child and Family Law at the University of Stirling,⁴² argued that recognition of children's rights has advanced considerably in the late 20th and early 21st Centuries:

“ Children are no longer regarded simply as the objects of protection but, rather, as people with rights. ”

Professor Sutherland also said that the practice of physical punishment on children can have a serious physical and/or emotional impact that can continue well beyond childhood. Further that:

“ Children learn by example, by modelling their behaviour on that of others. To permit parents to hit their children sends the young entirely the wrong message: that the strong and powerful will prevail by using physical coercion against the vulnerable and the powerless.”

CELCIS^{iv} and CYCJ^v indicated their support for the Bill and said:

“ In alternative settings, such as in schools, foster care, residential care, and kinship care (where the child/young person is formally 'looked after'), physical punishment is not permissible, and would be regarded by many as wholly unacceptable. ⁴³ ”

Impact on equality groups

The consultation sought views on the impact of the proposed legislation on different equality groups - the protected characteristics^{vi} in the Equality Act 2010. A majority of respondents (59%) felt the proposed Bill would have a positive or slightly positive impact on equality groups. ⁴⁰ References were made to the increased protection for specific groups, such as LGBT children, children of certain religions, and disabled children.

The Equality and Human Rights Commission cautioned that there is little hard evidence in the UK about race, religion/belief, and the physical punishment of children. ⁴⁴ The Coalition for Racial Equality and Rights also cautioned that the view that there are higher rates of physical punishment among BME families in the UK and Scotland was a stereotype without any supporting evidence. ⁴⁵

PAMIS^{vii} said the proposed Bill would have a positive impact on children with learning disabilities. ⁴⁶ They said that currently, children with learning disabilities can be unnecessarily restrained or secluded within education settings. Therefore the Bill might have a positive impact on schools as well as homes.

Some of the respondents to this question, 14.5%, felt the proposed Bill would have a negative impact with regard to equalities. ⁴⁰ This is because it was:

“ viewed as an attack on those who believed in the Bible and their Christian faith's support for physical punishment; the proposal would therefore reduce equality for those with those religious beliefs. All of the responses by or associated with the Christian Institute stated this view. ⁴⁰ ”

The Policy Memorandum also discusses the protected characteristics that have been identified as being particularly affected by physical punishment: ²

- Age - the aim of the Bill is to provide equal protection for children from assault.
- Sex - physical punishment may have different impacts on boys and girls. Evidence suggests that boys are more likely to be physically punished than girls.
- Religion or belief - evidence suggests that the frequency and severity of physical punishment may vary depending on different religious and cultural norms, precedents and beliefs.

iv [Centre for Excellence for looked after children in Scotland](#)

v [Centre for Youth and Criminal Justice](#)

vi Age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, sexual orientation, and pregnancy and maternity.

vii Promoting a More Inclusive Society

- Race - there is no evidence that race is a factor in physical punishment in Scotland, although studies in the US have identified ethnicity as a factor.
- Disability - evidence suggests that disabled children are more likely to experience physical punishment than non-disabled children. The intention is that the education and guidance provided will address the difference between restraint and punishment.

An Equalities Impact Assessment has also been carried out on the Bill.⁴⁷ This is available on the [Equalities and Human Rights Committee](#) webpage, which is the lead Committee on the Bill. Annexed to the EQIA is a Child and Wellbeing Impact Assessment which has been carried out by Dr Susan Elsley at the request of John Finnie MSP.

Opinion polls on the physical punishment of children

Two opinion polls have sought the views of people in Scotland on whether smacking children should be banned.

A Yougov survey asked people in Great Britain on 18 July 2017: "[Do you think smacking children should or should not be banned?](#)" 25% of people in Scotland said it should be banned, 54% said it should not be banned, and 21% said "don't know".⁴⁸

A month after the Bill was introduced, it was reported that a Panelbase survey of more than 1,000 people for The Sunday Times Scotland found that 30% of people support the prohibition on smacking. More than half (53%) told pollsters they believe smacking should still be allowed, while 17% said they did not know.⁴⁹

A third opinion poll run by ComRes in October 2017⁵⁰, on behalf of [Be Reasonable Scotland](#), sought a range of views on smacking.

It asked people to select the statement that best reflect their views, including:

- Parental smacking of children should be a criminal offence^{viii} - 14%
- Parental smacking of children should not be a criminal offence - 74%
- A ban on smacking would lead to better behaviour once those children have grown up - 21%
- A ban on smacking would lead to worse behaviour once those children have grown up - 51%

viii This Bill does not create a criminal offence.

The Bill

The Children (Equal Protection from Assault) (Scotland) Bill is short and has only five sections.

The main purpose of the Bill is to abolish the defence of reasonable chastisement.

Section 1 of the Bill would do two things:

- First, it would abolish the defence in common law that the physical punishment of a child can be justified, commonly referred to as 'reasonable chastisement'. Section 1(1) refers to the 'rule of law', which means a principle of the common law. "Common law is a body of law developed over time from individual judicial decisions and from legal texts and other sources of authority".¹¹
- Second, it would repeal s.51 of the Criminal Justice (Scotland) Act 2003. Section 51 of the 2003 Act restricted the scope of the common law rule by prohibiting punishment of a child with an implement, hitting the child on the head, or shaking the child. It also put in place factors a court must have regard to when considering whether an assault on a child was justifiable.¹¹

The effect of Section 1 is that a parent, or anyone in charge of a child, will no longer be able to claim a defence of reasonable chastisement or justifiable assault if accused of assaulting a child. This will apply in criminal and civil cases.¹¹ The Explanatory Notes to the Bill state that children will therefore have the same protections as adults, in terms of the law on assault. To secure a conviction for assault, the prosecution has to show that there was criminal intent on the part of the accused, and the Explanatory Notes state that this would prevent "trivial physical contact being treated as an assault". Further, that the use of physical force in medical treatment or to remove a person from danger, would not be considered assault, unless criminal intent was present.¹¹

Section 2 of the Bill would place a duty on Scottish Ministers to promote public awareness and understanding of the effect of Section 1 of the Bill. It will be for Scottish Ministers to decide how to implement this provision. The Explanatory Notes to the Bill suggest it might include a publicity campaign, aimed at parents and carers, promoting a move to non-physical methods of child discipline. In addition, it is suggested that children and young people are also made aware of their rights.¹¹

Section 3 of the Bill covers transitional arrangements. It provides that the rule of law regarding justifiable assault, and s.51 of the Criminal Justice (Scotland) Act 2003, continues to have effect where there are:

“...any proceedings ongoing on, or brought on or after, the day section 1 comes into force which relate to an alleged assault on a child committed before that day.”

Therefore, the Bill has no retrospective effect.¹¹ A parent or carer charged with physical assault of a child after Section 1 comes into force (12 months after Royal Assent), for an assault that took place before Section 1 comes in to force, would still be able to use the defence of reasonable chastisement or justifiable assault.

There is also provision for Scottish Ministers to make regulations in connection with Section 1 coming into force. Such regulations would be subject to the negative procedure.

Section 4 of the Bill deals with commencement. Section 1 of the Act would come into force 12 months after the Act has achieved Royal Assent. This would allow time for Scottish Ministers to raise awareness of the abolition of the reasonable chastisement defence.¹¹

Section 5 names the title of the Act.

Alternatives to the Bill

John Finnie MSP could have pursued two alternative approaches to achieve the aims of the Bill:²

- to create a new criminal offence of physically punishing a child - this was not considered necessary because once the defence of 'reasonable chastisement' is abolished, "there would be sufficient legal protection in the law". Further, John Finnie wants to ensure that everyone has the same protection in law from physical punishment.
- not seek legislative change, but work with the Scottish Government and relevant professional services to bring about behaviour change in how parents discipline their children - it was felt that seeking behaviour change, without legislative change, would be ineffective. Reference is made to other parts of the world that have achieved behaviour change through awareness raising and legislative change. Further reference is made to legislation in Scotland that has sought behaviour change, such as the ban on smoking in public places to improve public health.

Costs of the Bill

It is not anticipated that the Bill will incur significant costs to implement.

The main costs estimated up to £300,000, relate to the duty on Scottish Ministers to promote awareness and understanding of the Bill. The cost of a call out (police and social work) is estimated at £700, while the total costs per prosecution are estimated as between £972 and £1,452.

In order to assess the cost impact of the Bill, it is necessary to consider the current average number of prosecutions for alleged assaults on children where the defence of 'reasonable chastisement' is used.

Such information is not collated in Scotland. However, the Financial Memorandum to the Bill²⁹ estimates that there is fewer than one case a year, on average, in Scotland. The estimate is based on data for the use of the defence in England and Wales between 2005 and 2007.

Increased prosecutions?

While the Bill would abolish the defence of 'reasonable chastisement', the public interest test would still be a consideration. These include factors such as gravity of the offence, impact on the victim, motive and mitigating circumstances. Given the public interest test, it

cannot be assumed that abolishing the defence of 'reasonable chastisement' would lead to an increase in the number of prosecutions for alleged assaults on a child.

Reference is made to other countries that have ended physical punishment against children.²⁹ In Sweden and New Zealand, there was an increase in the number of reports to police following the introduction of legislation. However, there was no marked increase in the number of prosecutions or convictions. The Financial Memorandum estimates, on the evidence from New Zealand, that in Scotland there could be an increase of seven reports to the police, and less than two prosecutions per year.

Costs on public bodies

The Financial Memorandum to the Bill²⁹ considered the cost impact on other services that could be impacted by the Bill, such as the Crown Office and Procurator Fiscal Service (COPFS), Scottish Courts and Tribunal Service, social work services, Police Scotland and Health Boards. Overall, costs were estimated to be low or could be accommodated within existing resources.

However, a paper from COPFS estimates a higher cost of prosecutions, of between £18,000 and £74,000 a year. It has calculated the annual number of assaults committed against children by their parents or carers by taking a sample of a three month period and multiplying by 4. The additional cost has been estimated for increases of 5%, 10% and 20%. The COPFS paper acknowledges that there is no hard data available and that actual increases will depend on behaviour changes and Crown prosecution policy in relation to the new legislation.²⁹

Public awareness raising

As noted above, the Financial Memorandum to the Bill²⁹ estimates that it might cost the Scottish Government around £300,000 to run a public awareness campaign on the Bill. This is based on figures from other government publicity campaigns. However, it is the Scottish Government's view that a smaller scale campaign would be sufficient, at a cost of around £20,000.

Scottish Government estimates

The Scottish Government has said that it is setting up an implementation group which will consider implementation costs further.²⁹

Bibliography

- 1 Scottish Parliament. (2018, September 6). Children (Equal Protection from Assault) (Scotland) Bill. Retrieved from [https://www.parliament.scot/S5_Bills/Children%20\(Equal%20Protection%20from%20Assault\)%20\(Scotland\)%20Bill/SPBill38S052018.pdf](https://www.parliament.scot/S5_Bills/Children%20(Equal%20Protection%20from%20Assault)%20(Scotland)%20Bill/SPBill38S052018.pdf) [accessed 1 February 2019]
- 2 Scottish Parliament. (2018, September 6). Children (Equal Protection from Assault) (Scotland) Bill: Policy Memorandum. Retrieved from [https://www.parliament.scot/S5_Bills/Children%20\(Equal%20Protection%20from%20Assault\)%20\(Scotland\)%20Bill/SPBill38PMS052018.pdf](https://www.parliament.scot/S5_Bills/Children%20(Equal%20Protection%20from%20Assault)%20(Scotland)%20Bill/SPBill38PMS052018.pdf) [accessed 4 February 2019]
- 3 Scottish Government. (2018, September 4). Delivering for today, investing for tomorrow: the Government's programme for Scotland 2018-2019. Retrieved from <https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/> [accessed 7 February 2019]
- 4 Chalmers, J., & Leverick, F. (2017). *Criminal Law of Scotland*. London: W Green.
- 5 Criminal Justice (Scotland) Act 2003. (2003, March). Retrieved from <https://www.legislation.gov.uk/asp/2003/7/contents> [accessed 12 February 2019]
- 6 Criminal Justice (Scotland) Act 2003: Explanatory Notes. (2003, March). Retrieved from <https://www.legislation.gov.uk/asp/2003/7/notes/contents> [accessed 12 February 2019]
- 7 European Court of Human Rights. (1998). *A v the United Kingdom*. [1998] 2 FLR 959. Retrieved from http://www.cirp.org/library/legal/A_v_UK1998/ [accessed 12 February 2019]
- 8 Scottish Executive. (2000). The Physical Punishment of Children in Scotland: A Consultation. Retrieved from <https://lx.iriss.org.uk/sites/default/files/resources/052.%20The%20Physical%20Punishment%20of%20Children%20in%20Scotland%20-%20A%20Consultation.pdf> [accessed 12 February 2019]
- 9 Council of Europe. (1950). European Convention on Human Rights. Retrieved from https://www.echr.coe.int/Documents/Convention_ENG.pdf [accessed 12 February 2019]
- 10 Children and Young Persons (Scotland) Act 1937. (1937, July 1). Retrieved from <https://www.legislation.gov.uk/ukpga/Edw8and1Geo6/1/37/contents> [accessed 12 February 2019]
- 11 Scottish Parliament. (2018, September 6). Children (Equal Protection from Assault) (Scotland) Bill: Explanatory Notes. Retrieved from [https://www.parliament.scot/S5_Bills/Children%20\(Equal%20Protection%20from%20Assault\)%20\(Scotland\)%20Bill/SPBill38ENS052018.pdf](https://www.parliament.scot/S5_Bills/Children%20(Equal%20Protection%20from%20Assault)%20(Scotland)%20Bill/SPBill38ENS052018.pdf) [accessed 2019 February 18]
- 12 UN Committee on the Rights of the Child. (2006). The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. Retrieved from <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqlkirKQZLK2M58RF%2f5F0vF1b6rTFNjw4eY3W5adlOuDfZp1GdKUJ8oRYHJyiPeOS%2bcQ90I8KHM75DD7B5IIMbhIZPgDtB5J7OmNi%2boP0erF> [accessed 7 February 2019]

- 13 Heilmann, A., Kelly, Y., & Watt, R.G. (2015, November). Equally Protected? A review of the evidence on the physical punishment of children. Retrieved from <https://learning.nspcc.org.uk/media/1117/equally-protected.pdf> [accessed 1 February 2019]
- 14 UN Committee on the Rights of the Child. (2016, July 16). Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland. Retrieved from <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskHOj6VpDS%2f%2fJqg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5Ltw0GL>
- 15 Scottish Government. (2016, March). Convention on the Rights of the Child - SG response to list of issues. Retrieved from <https://www.gov.scot/publications/convention-rights-of-child-scottish-governments-response/> [accessed 11 February 2019]
- 16 Scottish Parliament. (2017, September 5). Official Report: Meeting of the Parliament 5 September 2017. Retrieved from <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11054> [accessed 12 February 2019]
- 17 Scottish Government. (2018, December 20). Progressing the human rights of children in Scotland: 2018-2021 action plan. Retrieved from <https://www.gov.scot/publications/progressing-human-rights-children-scotland-action-plan-2018-2021/> [accessed 13 February 2019]
- 18 Scottish Government. (2017, September 5). A nation with ambition: the Government's Programme for Scotland 2017-2018. Retrieved from <https://www.gov.scot/publications/nation-ambition-governments-programme-scotland-2017-18/> [accessed 12 February 2019]
- 19 Welsh Government. (2016). Taking Wales Forward: 2016-2021. Retrieved from <https://beta.gov.wales/sites/default/files/publications/2017-08/taking-wales-forward.pdf> [accessed 13 February 2019]
- 20 Welsh Government. (2018, January). Legislative Proposal To Remove The Defence Of Reasonable Punishment. Retrieved from <https://beta.gov.wales/sites/default/files/consultations/2018-02/180109-legislation-consultation-en.pdf> [accessed 13 February 2019]
- 21 Ending the physical punishment of children will protect their rights. (2018, August 8). Retrieved from <https://gov.wales/newsroom/people-and-communities/2018/180806-ending-the-physical-punishment-of-children-will-protect-their-rights/?lang=en> [accessed 13 February 2019]
- 22 BBC news. (2018, September 12). Fresh call for smacking to be outlawed in the home. Retrieved from <https://www.bbc.co.uk/news/education-45483347> [accessed 13 February 2019]
- 23 Global Initiative to end all Corporal Punishment of Children. (n.d.) States prohibiting all corporal punishment of children, including in the home. Retrieved from <https://endcorporalpunishment.org/countdown/> [accessed 15 February 2019]
- 24 Global Initiative to end all Corporal Punishment of Children. (2018, January). Corporal Punishment of children in Sweden. Retrieved from <http://www.endcorporalpunishment.org/wp-content/uploads/country-reports/Sweden.pdf> [accessed 15 February 2019]

- 25 Global Initiative to end all Corporal Punishment of Children. (2017, August). Corporal Punishment of children in Ireland. Retrieved from <http://www.endcorporalpunishment.org/wp-content/uploads/country-reports/Ireland.pdf> [accessed 15 February 2019]
- 26 The Independent. (2018, November 30). France passes law banning parents from smacking children. Retrieved from <https://www.independent.co.uk/news/world/europe/france-smacking-ban-parents-children-corporal-punishment-a8661191.html> [accessed 19 February 2019]
- 27 Global Initiative to end All Corporal Punishment of Children. (2019). Corporal punishment of children in France. Retrieved from <http://www.endcorporalpunishment.org/wp-content/uploads/country-reports/France.pdf> [accessed 19 February 2019]
- 28 Global Initiative to end all Corporal Punishment of Children. (2016, July). Corporal Punishment of Children in New Zealand. Retrieved from <http://www.endcorporalpunishment.org/wp-content/uploads/country-reports/NewZealand.pdf> [accessed 15 February 2019]
- 29 Scottish Parliament. (2018, September 6). Children (Equal Protection from Assault) (Scotland) Bill: Financial Memorandum. Retrieved from [https://www.parliament.scot/S5_Bills/Children%20\(Equal%20Protection%20from%20Assault\)%20\(Scotland\)%20Bill/SPBill38FMS052018.pdf](https://www.parliament.scot/S5_Bills/Children%20(Equal%20Protection%20from%20Assault)%20(Scotland)%20Bill/SPBill38FMS052018.pdf) [accessed 18 February 2019]
- 30 Anderson, S., Bradshaw, P., Cunningham-Burley, S., Hayes, F., Jamieson, L., MacGregor, A., ... Wasoff, F. (2007). Growing up in Scotland: a study following the lives of Scotland's children. Retrieved from <https://www.gov.scot/publications/growing-up-scotland-study-following-lives-scotlands-children/pages/0/> [accessed 18 February 2019]
- 31 Bradshaw, P., Cunningham-Burley, S., Dobbie, F., MacGregor, A., Marryat, L., Ormston, R., ... Wasoff, F. (2008). Growing up in Scotland: Sweep 2 Overview Report. Retrieved from <https://www2.gov.scot/Resource/Doc/212225/0056476.pdf> [accessed 18 February 2019]
- 32 Hansen, K., & Joshi, H. (2008). Millennium Cohort Study Third Survey: A User's Guide to Initial Findings. Retrieved from http://discovery.ucl.ac.uk/10005931/1/MCS_3_Descriptive_Report_Oct_2008.pdf [accessed 18 February 2019]
- 33 Hansen, K., Jones, E., Joshi, H., & Budge, D. (2010). Millennium Cohort Study Fourth Survey: A User's Guide to Initial Findings. Retrieved from https://cls.ucl.ac.uk/wp-content/uploads/2017/07/MCS4-Users-Guide-to-Initial-Findings-2nd-Edition-15-12-10_MT.pdf [accessed 18 February 2019]
- 34 Parkes, A., Sweeting, H., & Wright, D. (2014). Growing up in Scotland: Family and school influences on children's social and emotional well-being. Retrieved from <https://www2.gov.scot/Resource/0045/00452548.pdf> [accessed 18 February 2019]
- 35 Heilmann, A., Kelly, Y., & Watt, R.G. (2012). Smacking children in the UK – are there links to socio-emotional difficulties in early childhood?. Retrieved from https://www.researchgate.net/publication/272564312_Smacking_children_in_the_UK_-_are_there_links_to_socio-emotional_difficulties_in_early_childhood [accessed 18 February 2019]
- 36 Gershoff, E.T. (2008). Report on the Physical Punishment in the United States: What research tells us about its effects on children. Retrieved from <http://www.nospank.net/gershoff.pdf> [accessed 18 February 2019]

- 37 National Children's Bureau and Save the Children UK. (2004). It hurts you inside: young children talk about smacking. Retrieved from <http://www.crae.org.uk/media/26377/it-hurts-inside-summary-report.pdf> [accessed 18 February 2019]
- 38 Save the Children UK. (2006). Listen up! Children talk about smacking. Retrieved from <https://resourcecentre.savethechildren.net/library/listen-children-talk-about-smacking> [accessed 18 February 2019]
- 39 Finnie, J. (2017, May 12). A proposal for a Bill to give children equal protection from assault by prohibiting the physical punishment of children by parents and others caring for or in charge of children. Retrieved from https://www.parliament.scot/S5MembersBills/John_Finnie_Final_Consultation_Document_pdf.pdf [accessed 6 February 2019]
- 40 Finnie, J. (2017, October). Proposed Children (Equal Protection from Assault) (Scotland) Bill: Summary of Consultation Responses. Retrieved from http://www.scottish.parliament.uk/S5MembersBills/Consultation_summary_physical_punishment.pdf [accessed 14 February 2019]
- 41 Waiton, D.S. (2017). Children (Equal Protection from Assault) (Scotland) Bill: Consultation response. Retrieved from <https://johnfinniemsp.files.wordpress.com/2017/05/response-0100-publication.pdf> [accessed 19 February 2019]
- 42 Sutherland, E. (2017). Children (Equal Protection from Assault) (Scotland) Bill: Consultation response. Retrieved from <https://johnfinniemsp.files.wordpress.com/2017/05/response-0287-publication.pdf> [accessed 14 February 2019]
- 43 Centre for Excellence for looked after children and Centre for Youth and Criminal Justice. (2017). Children (Equal Protection from Assault) (Scotland) Bill: Consultation response. Retrieved from <https://johnfinniemsp.files.wordpress.com/2017/05/response-0651-publication.pdf> [accessed 18 February 2019]
- 44 Equality and Human Rights Commission. (2017). Children (Equal Protection from Assault) (Scotland) Bill: Consultation response. Retrieved from <https://johnfinniemsp.files.wordpress.com/2017/05/response-0403-publication.pdf> [accessed 18 February 2019]
- 45 Coalition for Racial Equality and Rights. (2017). Children (Equal Protection from Assault) (Scotland) Bill. Retrieved from <https://johnfinniemsp.files.wordpress.com/2017/05/response-0647-publication.pdf> [accessed 18 February 2019]
- 46 PAMIS. (2017). Children (Equal Protection from Assault) (Scotland) Bill: Consultation response. Retrieved from <https://johnfinniemsp.files.wordpress.com/2017/05/response-0378-publication.pdf> [accessed 18 February 2019]
- 47 Scottish Parliament. (2018). Children (Equal Protection from Assault) (Scotland) Bill: Equalities Impact Assessment. Retrieved from https://www.parliament.scot/S5_Equal_Opps/Inquiries/EqualProtectionFullEQIA.pdf [accessed 19 February 2019]
- 48 YouGov. (2017). Should smacking be banned?. Retrieved from <https://yougov.co.uk/opi/surveys/results#/survey/dbc963d7-6b9f-11e7-bc0d-e7924d4c4383/question/f59d545f-6b9f-11e7-82b4-37e5bc96ed54/region> [accessed 18 February 2019]

- 49 The Scotsman. (2018). Poll: Only 30% of Scots back smacking ban. Retrieved from <https://www.scotsman.com/news/poll-only-30-of-scots-back-smacking-ban-1-4814839> [accessed 18 February 2019]
- 50 ComRes. (2017, October). Be Reasonable: Survey of Scottish Adults. Retrieved from https://www.comresglobal.com/wp-content/uploads/2017/10/Be-Reasonable_Scotland-Survey_-Data-Set.pdf [accessed 19 February 2019]

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Nicki Georghiou on telephone number 85190 or nicki.georghiou@parliament.scot.

Members of the public or external organisations may comment on this briefing by emailing us at SPICe@parliament.scot. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at sp.info@parliament.scot. Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

