

Joint written evidence submitted by NSPCC, Royal College of Paediatrics and Child Health (RCPCH) and Barnardo's to Children's Wellbeing and Schools Bill: Call for Evidence

January 2025

Summary

- This joint evidence submission from RCPCH, NSPCC and Barnardo's focuses on a crucial wellbeing issue for children that is missing from the current bill: physical punishment.
- Evidence shows that the physical punishment of children is harmful.
- Despite this, physical punishment remains lawful by virtue of the 'reasonable punishment' defence – an exception to the law of assault. This leaves children with less protection from assault than adults
- **Collectively, our organisations alongside the Children's Commissioner for England, support amendment New Clause 10 to this Bill that removes "reasonable punishment" defence from law in England by amending section 58 of the Children Act 2004.**
- Removing the defence will end a legal loophole to the law of assault and battery and given children equal protection.
- Failing to address this key wellbeing issue in a Bill focused on wellbeing will be a significant missed opportunity and will only serve to perpetuate inter-generational cycles of violence towards children which we so desperately need to stop.

Amendment New Clause 10 (NC10)

- Amendment New Clause 10 tabled by Jess Asato MP would abolish the common law defence of reasonable punishment in relation to corporal (physical) punishment of a child taking place in England, amend certain provisions of the Children Act 2004 relating to corporal punishment children and place a duty on the Secretary of State to report this change.

How physical punishment affects children's health, wellbeing and safety

- There is a wealth of evidence showing that physical punishment doesn't work in managing children's behaviour. Not only is it ineffective, but it can also have a significant negative impact on children's health and wellbeing.
- A narrative review of almost seventy studies published in The Lancet in 2021¹ showed that physical punishment was linked with no positive outcomes for children. Rather, it was linked to increased child behaviour problems over time. This is further supported by a report² published by RCPCH earlier this year which showed that children who experience physical punishment are up to 2.6 times more likely to experience mental health problems and up to 2.3 times likely to go on to experience significant harm through more serious forms of physical abuse.

Prevalence and public attitudes

¹ Heilmann, A. et al (2021). Available at: [Heilmann et al 2021 Physical punishment and child outcomes The Lancet Accepted author manuscript.pdf](#)

² RCPCH (2024). Available at: [Equal protection from assault in England and Northern Ireland: Prohibiting physical punishment of all children | RCPCH](#)

- Physical punishment is still a feature of childhood today. Data from the UK's 'Understanding Society' study showed that more than one in five 10-year-old children had experienced physical punishment in 2020/21.³ Contacts to the NSPCC's adult Helpline about physical punishment of children tripled in 2023/24⁴; and, in that same period, Childline dealt with over 700 contacts from children about physical punishment.⁵ The NSPCC's Helpline and Childline hear from children, parents, professionals and members of the public about physical punishment, often seeking advice about what to do, unclear about whether something they've seen or experienced is allowed.

"My parents have always hit me since I was little and I have never thought much of it because they said it's not illegal to hit your child as a way of teaching them not to do a wrong thing. But I do not think that at my age they should still be hitting me. It is not constant hitting but when it happens it really hurts and it comes as a last resort or out of anger."

Girl aged 16, [Childline](#)

- Public attitudes around physical punishment are changing. Polling commissioned by the NSPCC has found consistently in [2022](#), [2023](#) and [2024](#), that a majority of adults in England think the physical punishment of children is unacceptable.

The current legal position

- Despite evidence that physical punishment is harmful to children, and despite changing public attitudes, it is still lawful in England. The 'reasonable punishment' defence – a common law defence to battery of a child in England⁶ – means that something, which may otherwise constitute assault or battery, is permissible because it was done by an adult (parent or carer acting *in loco parentis*) to a child on the grounds of punishment.
- In effect, this means that children have less protection from physical harm than everyone else in society.
- And there is no legal definition as to what is 'reasonable'. It is dependent on circumstance and open to interpretation. Where exactly do we draw the line between lawful punishment and unlawful abuse? The in-built ambiguity in the current law leaves children exposed to potential harm.
- Where a child has been subject to physical punishment, professionals can find it difficult to assess and respond to potential risk. Professor Andrew Rowland, Consultant Paediatrician and RCPCH Officer for Child Protection said:

"As a paediatrician working in child protection services, I am regularly faced with difficult situations where it is alleged that physical punishment has been used against a child. Yet the current legislation around smacking and physical punishment of children makes it a unique challenge for protective services to have conversations with families about how they can act in the best interests of their child, and what is acceptable with regard to treatment of children."

- The risks inherent in physical punishment also arise in safeguarding practice reviews⁷, where the challenges faced by professionals in distinguishing between physical punishment and physical abuse, and the barrier this presents to child protection, are flagged.

Case for change: amending the Children's Wellbeing and Schools Bill

³ UCL (2024). Available at: [ICLS Policy brief large print graph](#)

⁴ NSPCC (2024). Available at: [Over 300% increase in contacts to our Helpline about physical punishment against children | NSPCC](#)

⁵ NSPCC (2024). Available at: [Give children equal protection from physical abuse | NSPCC](#)

⁶ Confined to battery by section 58 of the Children Act 2004

⁷ See, for example, [2024WorcestershireAlfieCSPR.pdf](#) (p20) and [2023NorfolkChildAKCSPR.pdf](#) (p11)

- In 2025, it cannot be right that children, the youngest and most vulnerable group in society, are the least protected from physical assault. This Bill could, and must, change that.
- The Children’s Wellbeing and Schools Bill seeks to make provision of the safeguarding and welfare of children. In the spirit of this policy intention, it should be amended to repeal the ‘reasonable punishment’ defence. This would give children the same protection from assault as everyone else, and provide absolute clarity to parents, to professionals seeking to support them and, crucially, to children themselves about how they can expect to be treated.
- Scotland, Wales, Jersey and the Republic of Ireland have already repealed their equivalents of the ‘reasonable punishment’ defence; further afield physical punishment is no longer permissible in countries including Tajikistan, Zambia, South Korea and Brazil.
- Such a change is long overdue in England. Failing to address this key wellbeing issue in a Bill focused on wellbeing will be a significant missed opportunity and will only serve to perpetuate inter-generational cycles of violence towards children which so desperately need to stop.

Political support

- There is cross-party support for this change. At Second Reading, MPs from across the House spoke in support of removing the defence of “reasonable punishment” from law in England.
- Jess Asato MP (Lowestoft, Lab), David Simmonds MP (Conservative, Ruislip, Northwood and Pinner) and Vikki Slade MP (Liberal Democrat, Mid Dorset and North Poole) all agreed that the Bill must go further to protect children from assault and recognised that ending the defence of “reasonable punishment” would ensure all children enjoyed equal protection.

International evidence supporting legal change

The evidence from countries where physical punishment has been prohibited is clear- there is a tangible impact on the number of children who experience physical punishment. For example:

- In Germany, in 1992, 30% of young people had been subjected to corporal punishment; by 2002, the figure was 3%
- In Romania, there has been a 22% decrease in caregivers’ use of corporal punishment within a decade following prohibition between 2001-2012. Children’s reports of the use of severe forms of corporal punishment have halved.
- In Sweden, half of children were regularly subjected to corporal punishment in the 1970s, before prohibition. This number reduced drastically to a few per cent by the 2000s.

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