

ABOLITION OF THE COMMON LAW DEFENCE OF REASONABLE PUNISHMENT OF CHILDREN IN ENGLAND

Submission to the Children’s Wellbeing and Schools Bill Committee

House of Commons, UK Parliament

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Hyperlinked contents

Preamble	3
Corresponding author.....	3
Acknowledgements.....	3
Summary	4
Introduction.....	5
The meaning of “ <i>Equal Protection</i> ”	6
Scotland and Wales	6
Health impacts of physical punishment of children.....	7
The views of children, adolescents and adults towards physical punishment	9
Supporting families - the importance of a law change	9
Achieving lasting change in communities	9
Protecting children’s rights	10
The benefits to individual children, families and professionals	10
The law in England	11
Precedent for legal changes to physical punishment laws	12
Current legal arrangements in England.....	12

Recommended Legal Amendments - England.....	13
Avoiding further adverse childhood experiences.....	13
Mitigating any potential criminalisation of parents	14
Putting equal protection for children into practice	15
Supporting positive parenting	17
Recommendations.....	18
Conclusions.....	18
Appendix One: Declarations of interest.....	20
Appendix Two: References.....	23

PREAMBLE

We are a group of academic researchers from the University of Salford (Salford, UK); Deakin University (Melbourne, Australia); Australian Catholic University (Melbourne, Australia); and the University of Melbourne (Melbourne, Australia). We supply this evidence to the UK Parliament in response to the Children’s Wellbeing and Schools Bill Committee’s call for evidence, January 2025. Our declarations of interest are set out in **Appendix One** of this submission. This submission supports an Amendment being brought to the Children’s Wellbeing and Schools Bill to abolish the common law defence of reasonable punishment in England. At the time of providing this submission to the Children’s Wellbeing and Schools Bill Committee (“the Committee”), Amendment New Clause (NC) 10 and consequential Amendment 11 feature on the marshalled list of Amendments. The authors of this submission support NC10 and consequential Amendment 11 and believe that these amendments should both be made to the Children’s Wellbeing and Schools Bill as it progresses through Parliament. This submission is supported by 65 references which are set out in **Appendix Two**. The authors are content to be named when this submission is uploaded to the UK Parliament Bill Committee website.

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SUMMARY

The authors of this submission support New Clause (NC) 10 and consequential Amendment 11 of the Children’s Wellbeing and Schools Bill (“CWSB”) before the UK Parliament (as at 21 January 2025) and believe that these amendments should both be made to the CWSB as it progresses through Parliament.

Within the UK, children in England and Northern Ireland are the only people who are not fully protected in law from assault. Scotland and Wales have paved the way towards the UK becoming a more equal society and better protecting children, leaving England and Northern Ireland behind. Physical punishment of children is less effective as a long-term strategy for improving behaviours than other approaches. Internationally, 67 states have full prohibition of physical punishment of children. Twenty-six more states have committed to reforming their laws to achieve a complete legal ban. There is overwhelming academic evidence which clearly demonstrates that physical punishment has adverse effects on children. The adverse health impacts include poor mental health, and social, behavioural and emotional difficulties. Children who are physically punished are at a heightened risk of serious physical assault. Physical punishment of children should be considered an adverse childhood experience and addressed in efforts to prevent violence. This submission supports legislative change being introduced as a deterrent to prevent cases of physical punishment of children in England. Whilst the authors believe that legislative change is required in both England and Northern Ireland, they understand that the jurisdiction of the Committee is restricted to England only and therefore this submission relates to England. The authors will pursue the Northern Ireland matters separately.

In addition to legislative change, additional measures are needed to bring about restorative approaches that both protect the child and maintain and support the parent-child relationship. That support should include a judicial discretion for a non-conviction outcome for those parents judged suitable having regard to all the circumstances of the case, including the best interests of the child in maintaining the family relationship. The recommendations in this submission propose a joint approach which simplifies practice in the children’s sector; which upholds children’s rights in law; and which supports families and communities to make positive changes to parenting practices.

INTRODUCTION

The law in England is inconsistent with Article 19 of the United Nations Convention on the Rights of the Child (UNCRC) ¹ which states that children must be free from violence. This submission outlines the case for why the law in England needs to change to ensure children are protected in the same way that adults are afforded this human right. Article 19 of the UNCRC, which has been ratified by the UK government, states that:

“There must be the right laws and measures in place to protect children. This includes 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”.

In 2015, with the adoption of the United Nations (UN) Sustainable Development Goals (SDGs), the world made a commitment to end violence against children (Sustainable Development Goal target 16.2) by the year 2030. ² Physical or corporal punishment, that is *“any punishment in which physical force is used and intended to cause some degree of pain or discomfort”* ³ to ‘discipline’ a child by a parent/legal guardian/caregiver, remains lawful in England in specific circumstances (the ‘reasonable punishment’ defence). In order to meet the United Nations goals, ending violence against children must also include legal prohibition and elimination of physical punishment of children.

Within the United Kingdom (UK), children in England and Northern Ireland are the only group of people not fully protected in law from physical assault. This is because of the ‘reasonable punishment defence’ (set out in the Children Act 2004 ⁴ and the Law Reform (Miscellaneous Provisions) (Northern Ireland Order) 2006) ⁵ which means that if a parent physically punishes their child, they can argue (either as a means of avoiding prosecution or, ultimately, in court) that this was ‘reasonable punishment’.

Since the Children Act 2004 came into law two decades ago, there has been extensive research showing that physical punishment has negative effects on children’s physical and mental health, social, behavioural, and emotional well-being, cognitive development, brain growth, parental relationships and school engagement. There is also evidence that physical

punishment increases the risk that it will escalate in severity, putting children who are physically punished at higher risk of experiencing significant harm through serious physical assault. Scotland and Wales have both changed the relevant respective laws in the last four years to keep step with these developments. In so doing, they have also paved the way for the United Kingdom to take similar action to ensure children have ‘Equal Protection’ to adults by removing the reasonable punishment defence from their legislation. ^{6 7}

This submission to the Committee outlines the evidence-based case for this legislative change by exploring why some parents use physical punishment, summarising the evidence that exists regarding the impact of physical punishment on children, and supports recommendations for legislative change in England to mirror the changes already made to the law in Wales and Scotland. In this submission the term ‘physical punishment’ is used to mean all forms of physical (corporal) punishment including smacking and spanking.

THE MEANING OF “*EQUAL PROTECTION*”

In England the law allows physical punishment of a child where that punishment is ‘reasonable’. This is because a parent or carer can use the defence of ‘reasonable punishment’ to justify hitting a child (as set out in Section 58 of the Children Act 2004). ⁴ In contrast, all adults in England are protected in law from all forms of physical assault (battery). If an adult physically assaults another adult (subjects that adult to battery), the victim is protected in law. ^{8 9 10 11} This includes within an intimate or domestic relationship between adults, which has been the case since 1976 following the introduction of the Domestic Violence and Matrimonial Proceedings Act, 1976 ¹² - this changed the law to ensure a husband could no longer beat his wife. Children, however, are still not equally protected from physical assault when compared to their adult counterparts. ⁴

SCOTLAND AND WALES

UK-wide laws exist as do devolved laws in the individual countries within the UK. The laws pertaining to physical punishment of children are devolved, with different laws in the four countries of the UK. In Scotland, the defence of reasonable punishment, which allowed parents and carers to justify physical punishment of their child, was abolished under the Children (Equal Protection from Assault) (Scotland) Act 2019 ⁶ which came into force on 7

November 2020. In Wales, the defence of reasonable punishment, which allowed the physical punishment of children, was abolished in 2022 under the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act which came into force on 21 March 2022.⁷ The Wales Safeguarding Procedures Project Board has also published guidance on safeguarding responses where a child is affected by physical punishment.¹³ These changes mean that children in Scotland and Wales are now equally protected from physical punishment in their countries. In contrast, children in England and Northern Ireland do not have the same protections as in Wales and Scotland; and legislative change in England and Northern Ireland to remove the defence of reasonable punishment is required to align all four countries of the UK. This is especially important given that it is the UK government that is a signatory to the UNCRC which affords children protection from violence.

HEALTH IMPACTS OF PHYSICAL PUNISHMENT OF CHILDREN

The negative health impacts of physical punishment in childhood are well documented and include increased adverse mental health; poorer parent-child relationships; and a risk of significant harm and serious assault.^{14 15 16 17 18 19 20} Physical punishment is consistently associated with a variety of negative health and developmental consequences for children,^{21 22 23 24 25 26} most significantly increasing their risk of experiencing physical abuse,^{27 28 29} and increasing their risk of experiencing mental health problems, potentially by up to 2.6 times.³⁰ Therefore, preventing physical punishment is necessary for healthy child development, reducing the risk of further violence, and upholding children's rights to protection.³¹ Physical abuse has also been shown to have a compounding impact on children, with children who experience increasing levels of parental aggression becoming more aggressive with others³² and having poorer quality parent-child relationships.

Children who are physically punished are at risk of significant harm, with those that have been physically punished by their parents potentially being up to seven times more likely to be seriously assaulted (for example punched or kicked) than those who have not been physically punished and more likely to suffer an injury requiring medical attention than those who have not been physically punished.³³

There is a knock-on impact of physical punishment across children's lives, with physical punishment and severe physical maltreatment having been shown to be associated with emotional and behavioural difficulties in school children,³⁴ as well as associations between physical punishment and negative cognitive and social-emotional outcomes, with there being no evidence that physical punishment may relate to any positive developmental outcome.³⁵

The evidence shows that disciplining children through physical violence merely serves to educate them that such violence is accepted and encouraged by society, which may teach them to behave this way as they grow older.¹⁴

When physical punishment of children remains lawful (even if only in specific circumstances) it makes it difficult for healthcare professionals and other childcare practitioners to distinguish between children who are routinely abused and children who are largely well cared for. Prohibiting physical punishment in all circumstances leaves decisions about whether or not to prosecute for prosecutorial discretion or guidelines, and whether actions were unlawful, and appropriate levels of sentencing, to judicial discretion. Taking such decisions out of the hands of front-line children's service practitioners allows doctors, social workers and teachers to focus on assessing and supporting the child in front of them and facilitates straight forward and open communication with families about safe parenting practices. Behavioural interventions that promote parental support and effective use of non-violent discipline to establish healthier family relationships and to prevent or mitigate the impact of emotional and behavioural problems in children, are required.³⁴

This submission proposes a joint approach which simplifies practice in the children's sector; which upholds children's rights in law; and which supports families and communities to make positive changes to parenting practices. One change cannot occur without the other: prohibiting what some parents deem 'acceptable' discipline using physical force must occur alongside access, knowledge and support to learn effective alternatives. These methods must be built into health, education and social services.

The views of children, adolescents and adults towards physical punishment

Evidence shows that adolescents' views about physical punishment varies widely.¹⁴ A study has suggested that adolescents who have been physically punished in their childhood are more approving of this discipline method, regardless of the overall frequency, timing or chronicity of physical discipline that they received.³⁶ It has been reported that some children may accept physical punishment as a parental right and as part of the parental role,³⁷ while others believe that smacking will not solve anything: it will hurt children, cause more problems and should not be legal under any circumstances.³⁸

The National Society for the Prevention of Cruelty to Children (NSPCC) has periodically explored public views on the law in relation to physical punishment of children. The percentage of people who think smacking, hitting, slapping, or shaking a child is not acceptable has risen from 67% in 2023 to 71% in 2024.³⁹ The result comes from a new (2024) YouGov poll of over 3,500 adults across England which also found that 55% think physical punishment weakens the relationship between parent and child (up from 51% in 2023) and 60% think physical punishment has a negative impact on a child's mental health (up from 56% in 2023). The total sample was 3,559 adults, with data collected in January 2024. The findings have been weighted and are representative of all adults in England (aged 18 years old and above).⁴⁰

SUPPORTING FAMILIES - THE IMPORTANCE OF A LAW CHANGE

Achieving lasting change in communities

Achieving an inter-generational change for the benefit of families – across a whole range of health and social care outcomes – is inextricably linked to reducing physical punishment of children. For example, Adverse Childhood Experiences (ACEs), such as exposure to maltreatment and household dysfunction, are major risk factors for physical and mental health problems across the lifespan. A parent's ACEs history may be an important factor to consider when developing and implementing child maltreatment prevention efforts, and may be equally applicable when attempting to change society's views towards physical punishment of children.²⁶ The negative consequences of ACEs on parental aggression can be even more pronounced with multiple exposures to different patterns of ACEs. Women in the

high/multiple ACEs class are more likely to report higher levels of parent-to-child aggression risk, including belief in physical punishment, than those in the other classes. Preventive interventions targeting parental attitudes and behaviours among young women exposed to ACEs may decrease the risk for further perpetuation of aggression in the next generations.⁴¹ Physical punishment of children should be considered an ACE and addressed in efforts to prevent violence.³¹

Given the undesirable consequences of physically punishing children and a lack of empirical evidence to suggest positive effects of physical punishment, professionals who work with families should counsel parents not to physically punish their children (including infants and toddlers). For optimal benefits, efforts to educate parents regarding alternative forms of discipline should begin during the pregnancy and the child's first few years of life⁴².

Protecting children's rights

Physical punishment of children is significantly less effective than many strategies for improving behaviour and may even contribute to poorer behaviour.⁴³ To that end, it is less effective as a long-term strategy for improving behaviours than other approaches,⁴⁴ and reliance on physical punishment makes other disciplinary strategies less effective.⁴⁵ It is in this context that the continued use of physical punishment of children conflicts with international human rights law.¹⁴ It is important to reduce ineffective strategy of / for behavioural management of children and eradicating physical punishment of children is an important contribution to that aim.

THE BENEFITS TO INDIVIDUAL CHILDREN, FAMILIES AND PROFESSIONALS

Having legislation which clearly sets out that physical punishment of children is unlawful in all circumstances, is directly protective of the child or children living in that environment and also, paradoxically, the wider family. At the present time the position that exists whereby physical assault is unlawful, but a parent *may* have a defence in certain circumstances does not provide the clarity, transparency, and consistent protection that children need, deserve and are entitled to. If the law were to change, from a health practitioner point of view, they would work on the solid foundation of the illegality of physical punishment, and then be able to provide clear, legally supported, and unambiguous advice to families. Additionally, law

change would help practitioners who currently have to make a distinction between whether a child has suffered at the hands of a parent who had a momentary lost control when physically disciplining their child versus a child who is subjected to regular, repeated, prolonged, or significant abuse, regardless of whether that physical punishment is leaving a mark on the child.

It is essential that health, care, education, and other practitioners are able to make clear to a family, where it is alleged that physical punishment has occurred, that there are **no** circumstances in which this would or could be lawful. It introduces unhelpful confusion if practitioners are not in a position to be able to work with families and children with the underpinning legislative support that physical punishment is prohibited in all circumstances, without a defence being available – a defence that may permit obfuscation of the circumstances of the event, and which will result in children not receiving the protection to which they are entitled both as a matter of international law and otherwise.

Moves to prevent family violence are progressive, but the position of a society where child abuse is forbidden yet physical punishment of children is permitted is not a tenable one. Reducing the number of cases of child abuse must begin with a clear message from society that physical punishment of children, whatever the circumstances, is unacceptable.¹⁴

THE LAW IN ENGLAND

In England it is unlawful for a parent or carer to physically punish their child, except where this amounts to ‘reasonable punishment’. This defence is laid down in section 58 of the Children Act 2004,⁴ but crucially it is not defined in this legislation. Whether physical punishment (including, for example, a ‘smack’) amounts to reasonable punishment will depend on the circumstances of each case, taking into consideration factors like the age of the child and the nature of the smack. Although it will not be possible to rely on the defence if a parent uses severe physical punishment on their child which amounts to wounding, actual bodily harm, grievous bodily harm or child cruelty, this still leaves children who have suffered from a battery or common assault unprotected, including those who have been assaulted more than once.

Precedent for legal changes to physical punishment laws

Internationally, as of 22 January 2025, 67 states have full prohibition of physical punishment of children, starting with Sweden in 1979 – over four decades ago. An additional 26 states have committed to reforming their laws to achieve a complete legal ban. Over this time in the UK several laws have been changed that restricted or banned the use of physical punishment in different settings (**Figure 1**).

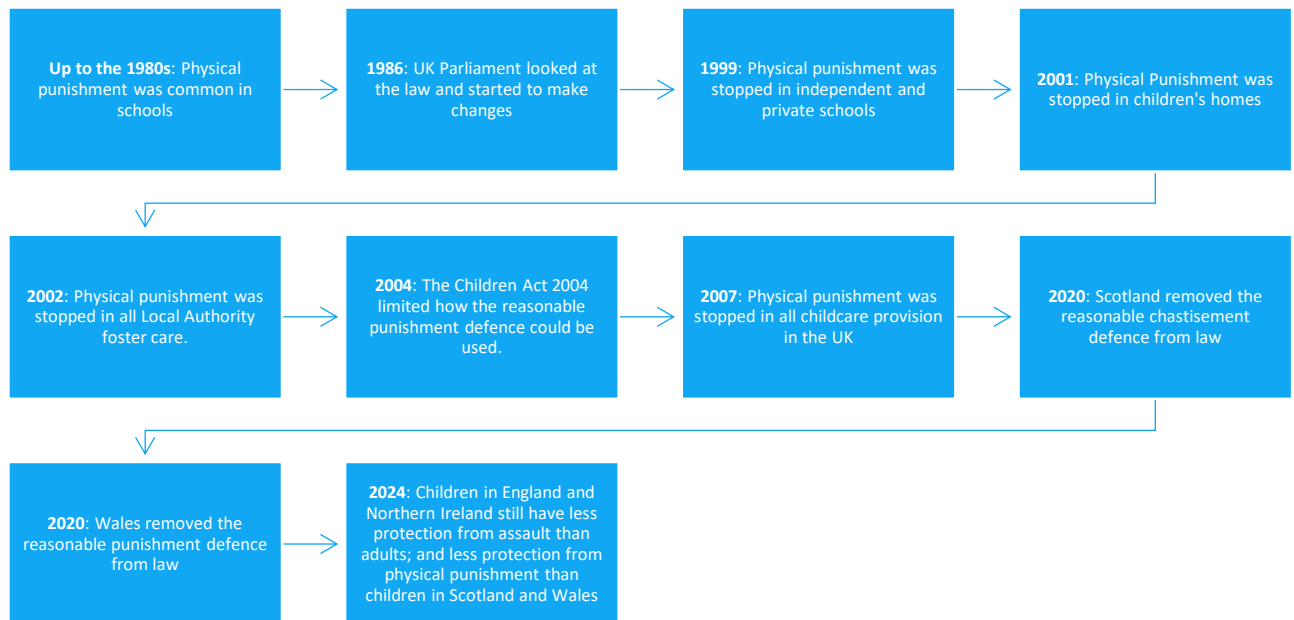


Figure 1: Timeline of Physical Punishment Legislation in the UK. Adapted from Welsh Government Consultation document. ⁴⁶

Current legal arrangements in England

In England, a parent or carer can use the defence of ‘reasonable punishment’ to justify hitting a child under Section 58 of the Children Act 2004. In cases of common assault, legal professionals are expected to judge for each individual case, whether the form of physical punishment was “reasonable and moderate” considering factors such as the age of the child. This inevitably involves not prosecuting in some cases of physical battery based on the

‘perceived’ severity of the child’s physical injuries and the pain they have experienced rather than the overarching detail of it being an act of assault. The logical result is variations in the extent to which children are protected from assault ⁴⁷ rather than a universal standard that applies in all cases. Such discretion may also unfavourably prejudice the prosecution and removal of children from certain marginalised or minority groups in society.

In 2007, the then Department for Children, Schools and Families published a review of Section 58 of the Children Act 2004 to assess its impact. The review found that, following the updated limitations, parents were less commonly using ‘smacking’ as a form of discipline and that legal protection for children had improved as a result of Section 58’s effect. ⁴⁸ Taking this further by removing any defence for physical punishment from relevant legislation is likely to strengthen these effects further, continuing to shift parenting practices and more explicitly protect children under the law.

RECOMMENDED LEGAL AMENDMENTS - ENGLAND

We recommend that the substitutions and insertions made via the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 ⁷ are mirrored in England in the Children Act 2004. NC10 and consequential amendment 11 (marshalled amendments to the Children’s Wellbeing and Schools Bill as at 21 January 2025) would achieve the necessary legislative change. These changes mirror draft proposals for a primary Bill and Amendment legislation previously made available. ^{49 50}

AVOIDING FURTHER ADVERSE CHILDHOOD EXPERIENCES

It is important that any legislation passed to prevent the physical punishment of children does not inadvertently result in further adverse childhood experiences, through the criminalisation and incarceration of parents. The Parenting and Family Research Alliance (PAFRA), who have examined solutions to ending physical punishment in Australia, note that:

“corporal punishment has historically been used as a child behavioural correction tool, and it is considered normative in some cultures. Beliefs about the acceptability of corporal punishment may vary by religious identification or ethnicity and,

therefore, result in different levels of corporal punishment use across ethnic and religious groups”. ⁵¹

As a result, loving parents may use physical punishment to correct their children’s behaviour, acting on a belief that this is in their child’s best interests. In such cases, steps must be taken to ensure that the criminal justice system does not inflict further harm on the child with inappropriate criminalisation, as opposed to the provision of support and education to change discipline practices. It is axiomatically clear that legislative change must be accompanied by public education and support in relation to moving away from the use of physical punishment.

It is imperative that in fixing one issue, another is not created. An examination of long-term attitude change in New Zealand after similar changes in the law, based on findings from public opinion surveys over three decades, found a substantial decline in approval of physical punishment. ⁵² Whilst the authors are not aware of a similar survey having been conducted in the UK, it is likely that some attitudes towards physical punishment of children will be mixed and that there will be concern over the potential criminalisation of otherwise loving parents who may be prosecuted for physical punishment of their own child.

Notwithstanding that such concerns, fears of increased prosecution of parents following law change are unlikely to occur. ⁵³ ⁵⁴ In New Zealand following law change in 2007, despite fears of criminalisation of parents, prosecutions by the New Zealand police over the next five years did not increase with parents for physical disciplining their children. ⁵⁴

Mitigating any potential criminalisation of parents

This paper recommends careful prosecuting guidelines are produced and followed to ensure that legal professionals are supported to make decisions which help families move away from the use of physical punishment without heavy-handed use of, in particular, custodial sentencing.

England should also introduce a judicial discretion for a non-conviction outcome for those parents who are prosecuted but later judged suitable for non-criminalisation, having regard to

all the circumstances of the case, including the best interests of the child in maintaining the family relationship. This could be achieved by an amendment to the Sentencing Act 2020⁵⁵ to allow for non-conviction outcomes similar to those in Victoria, Australia,⁵⁶ where the nature of the offence; the character and past history of the offender; and the impact of the recording of a conviction on the offender's economic or social well-being or on his or her employment prospects are taken into account.

Whilst this judicial discretion is not provided for in the currently proposed amendments to the Children's Wellbeing and Schools Bill, such a proposal is not a prerequisite for legislative change. If the Government were minded to pursue this it could be achieved via separate legislation in the future.

Legislative change is proposed to be a deterrent to prevent cases of physical punishment of children in England and it would only be in very limited circumstances that a prosecution would be pursued and in very extreme cases where imprisonment might occur. The focus should be on restorative approaches that both protect the child and maintain and support the parent-child relationship.

PUTTING EQUAL PROTECTION FOR CHILDREN INTO PRACTICE

Changing the law will not on its own eliminate physical punishment of children. Educational and preventative measures are needed to increase awareness of the harm of physical punishment to children; to inform about children's right to equal protection from assault; to support adoption of non-violent child raising habits; and to provide a foundation for behaviour and norm change. A good example of this occurred in Wales. When the law change occurred in 2022, a widespread media campaign was rolled out informing the population about the law changing as well as educating them about the impact of physical punishment on children.⁵⁷

The ultimate goal of removing the 'reasonable punishment' defence is to ensure that no child experiences physical punishment, by eliminating its use completely. Law reform is essential in sending a clear message that hitting or hurting a child is wrong, just as it is wrong to hit or hurt an adult. However, law reform only becomes truly effective when concrete measures are

put in place to prevent children experiencing physical punishment. Implementing the law is not just about responding to adults who physically punish children – most importantly it is about transforming attitudes and behaviour so that physical punishment is no longer accepted, enabling a shift towards non-violent child rearing methods.⁵⁸ The key steps that are necessary in moving from prohibition of physical punishment to elimination of physical punishment include:

- **Enactment:** adopting a law prohibiting physical punishment.
- **Planning:** developing a costed national plan for England.
- **Coordination:** integrating this plan into existing child protection systems.
- **Engagement:** public education, awareness raising, and communication.
- **Support:** positive parenting being promoted and supported by all relevant statutory and third-sector organisations in England.
- **Evaluation:** academic evaluation of the impact of the legislative change and of the outcome for individual groups of children and children, collectively, in society.

The development and adoption of a funded, multi-sectoral national action plan is central to effective implementation of the new law. The plan may focus specifically on physical punishment or may be integrated into a plan to eliminate all violence against children, or one taking a wider focus on child protection. The plan should include:

- coordination mechanisms, involving all services working with or for children;
- monitoring and evaluation processes;
- sufficient resources and long-term commitment to achieve change in societal norms and behaviours.

The plan may describe the context and available research, for example on the prevalence of physical punishment of children; it will identify priorities; describe a roadmap of activities; and include a budget. Planning for putting the law into effect should start before the law reform process has been completed, and ideally requirements to develop and implement a national plan should be included in legislation.

Awareness raising and communication are critical measures to support the implementation of laws prohibiting corporal punishment. Society-wide communications campaigns are needed to raise the profile of the new law, explain the purpose of prohibition, and how the law will be put into effect in the best interests of children, as well as support changes in attitudes and behaviours around violence in childrearing. Target audiences, key obstacles, messages, and most effective methods of communication should be identified. Critically, long term communications campaigns are needed to support changes in behaviour across generations.

Promotion of non-violent child raising should be promoted at every point of contact between government, families and children, for example across health, welfare, education and law enforcement services. Information should be included in training for education staff and all those working in care and justice systems.

SUPPORTING POSITIVE PARENTING

There is strong evidence that programmes supporting positive parenting have numerous beneficial impacts on child development, health and education outcomes, as well as reducing family violence and promoting child protective norms and behaviour.^{59 60} A parenting programme can be a structured intervention directed at parents and other key caregivers, designed to improve parent-child interaction and the overall quality of nurturing care that a child receives. Positive parenting focuses on creating safe home environments and building a foundation of support and care for children through responsive caregiving, affection, quality time, praise, learning opportunities and healthy methods of dealing with difficult behaviour. Nurturing care involves helping children develop healthy social and emotional behaviours, teaching life skills, and promoting well-being through modelling healthy ways to solve problems and communicate feelings.

Parents can be supported to adopt and maintain non-violent child rearing through freely available, widely accessible evidence-based positive parenting programmes, critically before becoming parents, when parenting young children, and as children grow. Additional measures, such as a free parent support helplines and more intensive services for families facing difficulties, are important in supporting positive parenting.

Scotland's introduction of equal protection (from assault) for children [in effect prohibiting physical punishment of children in all circumstances] came into effect in 2020. ⁶¹

ParentClub,⁶² a Scottish Government website for parents and carers provides information about the law, support in using positive, non-violent methods to raise children, ways of handling challenging behaviour and strategies for coping with being a parent. Information about the law is included in the Ready Steady Baby publication for new parents. ⁶³

The enactment and implementation of laws banning physical punishment can contribute to significant reductions in its use. ⁶⁴ Monitoring and evaluation play a key role in assessing the success and challenges of implementation, and understanding whether it has generated positive change for children. Monitoring and evaluation should involve everyone in the initiative to move from prohibition to elimination, including the ethical participation of children who are often better placed than adults to share information about their experiences. Showing evidence of the positive impact of law reform and its implementation helps to build increasing support for the new law and changes in attitudes and behaviour.

The implementation of programmes and interventions to promote childhood without use of physical punishment should include mechanisms to facilitate monitoring through ongoing data collection and analysis. Monitoring should follow the progress of planned activities, identify problems, provide feedback to stakeholders, and solve problems before they cause delays.

RECOMMENDATIONS

The authors recommend that the Children's Wellbeing and Schools Bill should be amended by way of the acceptance of NC10 and consequential amendment 11. The authors believe that such amendments would bring in the necessary abolition of the common law defence of reasonable punishment in England, with delayed commencement to enable appropriate public information and engagement to be provided.

CONCLUSIONS

Within the UK, children in England and Northern Ireland are the only people who are not fully protected in law from assault. Scotland and Wales have paved the way towards the UK

becoming a more equal society and better protecting children, leaving England and Northern Ireland behind. The majority of adults believe physical punishment of children is unacceptable and that the law should change to ensure that physical punishment is explicitly prohibited in all circumstances. Physical punishment of children has been found resolutely ineffective as a method of correcting children’s behaviour in contrast to numerous non-violent approaches that are effective at changing children’s behaviour without having the detrimental effects on their development. There is overwhelming scientific evidence which clearly demonstrates that physical punishment of children has adverse effects. These include poor mental health, and social, behavioural and emotional difficulties. Children who are physically punished are at a heightened risk for serious physical assault. Internationally, 67 states have full prohibition of physical punishment of children (starting with Sweden in 1979 – over 40 years ago). The time is right, and there is public support in the UK, to remove the “reasonable punishment” defence from law in England. Over time, it is likely that removal of the “reasonable punishment” defence will be accompanied by public-sector economic savings. Achieving an inter-generational change for the benefit of families – across a whole range of health and social care outcomes – is inextricably linked to reducing physical punishment of children. ⁶⁵

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APPENDIX ONE: DECLARATIONS OF INTEREST

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Professor Rowland is Honorary Professor (Children’s Rights, Law, and Advocacy) at the University of Salford. He has a portfolio career with clinical work as a Consultant Paediatrician [child health doctor] (Registered Medical Practitioner) at Manchester University NHS Foundation Trust. In addition, he is Lead Employer Medical Director at Mersey and West Lancashire Teaching Hospitals NHS Trust, Chair of the Board of Trustees of SicKids (registered charity 1164131), a member of the Advisory Council of the Churchill Fellowship, a non-Executive Member of the Board of Directors of M’Lop Tapang (Cambodia), and Officer for Child Protection at the Royal College of Paediatrics and Child Health. Professor Rowland holds Honorary Membership (HonMFPH) of the Faculty of Public Health; Fellowship (FRCPCH) of the Royal College of Paediatrics and Child Health; Membership of the Association of Child Protection Professionals; Senior Fellowship (SFFMLM) of the Faculty of Medical Leadership and Management; Fellowship (FAcadMED) of the Academy of Medical Educators; Fellowship (FRCEM) of the Royal College of Emergency Medicine; Fellowship (FRSA) of the Royal Society for the Encouragement of Arts, Manufactures and Commerce; and Fellowship (CF) of The Churchill Fellowship (formerly the Winston Churchill Memorial Trust). He is Member of, and a recipient of the Association Medal of, the British Medical Association. He is a former Head of the UK Delegation to, and recipient of the Gold Decoration of Honour of, the European Union of Medical Specialists (UEMS). He is a recipient of a “Your Nottingham Alumni Award” from the University of Nottingham.

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Professor Gerry is King’s Counsel at Libertas Chambers, London and Crockett Chambers, Melbourne and on the lists at the International Criminal Court and the Kosovo Specialist Chambers in the Hague. She is also an Honorary Professor at The University of Salford, UK and a Professor of Practice at Deakin University in Australia and a Professorial Research Fellow at RJ4All.

Professor (Dr) Daryl Higgins PhD Grad.Dip.Past.Couns. MAPS

Professor Daryl Higgins is Registered Psychologist with the Australian Health Practitioner Registration Agency and a member of the Australian Psychological Society. After working in academia and then in the Australian Government's Commonwealth Public Service as head of research in a statutory authority, in 2017 he was appointed Professor and Director of the Institute of Child Protection Studies (ICPS) at the Australian Catholic University. The Institute enhances outcomes for children, young people, and families through quality research, program evaluation, training and community education, advocacy, and policy development. He is an academic member or advisor for a range of advocacy groups and alliances, including Children in Care Collective, the National Centre for Action on Child Sexual Abuse, the Australian Child Rights Taskforce, the Australian Human Rights Commission, and the European Commission's Child Sexual Abuse Prevention Network. He is a member of the Tasmanian Commissioner for Children and Young People Child Rights Monitoring Advisory Group, the Ethical Research Advisory Committee for Bravehearts Foundation, the Child Wellbeing Data Asset Advisory Group to the Australian Institute of Health and Welfare, and the International Society for the Prevention of Child Abuse and Neglect's Child Maltreatment Data Collection Working Group. He is a Founding Director of the Parenting and Family Intervention Research Alliance (PAFRA), and a Board Member of Kooyoora Professional Standards Board. He is a co-convenor of the Ending Physical Punishment of Australian Children advocacy group, auspiced by PAFRA.

Professor (Dr) Sophie Havighurst PhD

Professor Havighurst is child clinical psychologist and Leader of Tuning in to Kids at Mindful: Centre for Training and Research in Developmental Health at the University of Melbourne in Australia. For over 25 years, in collaboration with co-creator Ann Harley and their team of researchers, trainers and students, she has led the development of a suite of parenting programs, conducted research evaluating these, and disseminated the programs around the world to professionals working with those in a parenting or caring role. She provides guidance and supervision to organisations, professionals, researchers and students who use and evaluate the programs with different populations globally. She is Chair and a Founding Director of the Parenting and Family Research Alliance (PAFRA), a multidisciplinary research collaboration of experts from leading universities and research

centres actively involved in conducting research, communication and advocacy pertaining to parenting, families and evidence-based parenting support. She is a Co-Convenor of the End Physical Punishment of Australian Children (EPPAC) advocacy group, made up of 160 stakeholders across Australia who are working to change legislation that currently allows parents to use corporal punishment with children.

APPENDIX TWO: REFERENCES

¹ United Nations (20 November 1989). Convention on the Rights of the Child. Available from <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>.

² World Health Organization. It is time to end corporal punishment everywhere and keep our 2030 promise to children. 2024 (30 April 2024). Available from <https://www.who.int/news-room/commentaries/detail/it-is-time-to-end-corporal-punishment-everywhere-and-keep-our-2030-promise-to-children>.

³ World Health Organization. Corporal punishment and health. 2021 (23 November 2021). Available from <https://www.who.int/news-room/fact-sheets/detail/corporal-punishment-and-health>.

⁴ Children Act 2004.

⁵ Law Reform (Miscellaneous Provisions) (Northern Ireland Order) 2006.

⁶ Children (Equal Protection from Assault) (Scotland) Act 2019.

⁷ Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020.

⁸ Section 39, Criminal Justice Act 1988.

⁹ Section 18, Offences Against the Person Act 1861.

¹⁰ Section 20, Offences Against the Person Act 1861.

¹¹ Section 47, Offences Against the Person Act 1861.

¹² Domestic Violence and Matrimonial Proceedings Act 1976.

¹³ Wales Safeguarding Procedures. Safeguarding children in relation to the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020.

¹⁴ Rowland AG, Gerry F, Stanton M. Physical Punishment of Children. *The International Journal of Children's Rights*. 2017;25(1):165-9.

-
- ¹⁵ Pace GT, Lee SJ, Grogan-Kaylor A. Spanking and young children's socioemotional development in low-and middle-income countries. *Child Abuse and Neglect*. 2019 Feb 1;88:84-95.
- ¹⁶ Gershoff ET. Report on Physical Punishment in the United States: What Research Tells Us About Its Effects on Children (Columbus, Ohio: Center for Effective Discipline, 2008).
- ¹⁷ Long SS. Negative consequences of corporal punishment of children are unequivocal. *The Journal of Pediatrics*. 2018 Mar 1;194:1.
- ¹⁸ Ip P, Wong RS, Li SL, Chan KL, Ho FK, Chow CB. Mental health consequences of childhood physical abuse in Chinese populations: A meta-analysis. *Trauma, Violence, and Abuse*. 2016 Dec;17(5):571-84.
- ¹⁹ Lee SJ, Altschul I, Gershoff ET. Does warmth moderate longitudinal associations between maternal spanking and child aggression in early childhood? *Developmental psychology*. 2013 Nov;49(11):2017.
- ²⁰ Ma J, Han Y, Grogan-Kaylor A, Delva J, Castillo M. Corporal punishment and youth externalizing behavior in Santiago, Chile. *Child Abuse and Neglect*. 2012 Jun 1;36(6):481-90.
- ²¹ Zolotor AJ, Robinson TW, Runyan DK, Barr RG, Murphy RA. The emergence of spanking among a representative sample of children under 2 years of age in North Carolina. *Frontiers in psychiatry*. 2011 Jun 24;2:36.
- ²² Gershoff ET, Goodman GS, Miller-Perrin C, Holden GW, Jackson Y, Kazdin AE. There is still no evidence that physical punishment is effective or beneficial: Reply to Larzelere, Gunnoe, Ferguson, and Roberts (2019) and Rohner and Melendez-Rhodes (2019). *American Psychologist*. 2019;74(4): 503–505.
- ²³ Gershoff ET, Goodman GS, Miller-Perrin CL, Holden GW, Jackson Y, Kazdin AE. The strength of the causal evidence against physical punishment of children and its implications for parents, psychologists, and policymakers. *American Psychologist*. 2018 Jul;73(5):626.

-
- ²⁴ Gershoff ET, Sattler KM, Ansari A. Strengthening causal estimates for links between spanking and children's externalizing behavior problems. *Psychological science*. 2018 Jan;29(1):110-20.
- ²⁵ Heilmann A, Mehay A, Watt RG, Kelly Y, Durrant JE, van Turnhout J, Gershoff ET. Physical punishment and child outcomes: a narrative review of prospective studies. *The Lancet*. 2021 Jul 24;398(10297):355-64.
- ²⁶ Afifi TO, Salmon S, Stewart-Tufescu A, Taillieu T. An examination of parents' adverse childhood experiences (ACEs) history and reported spanking of their child: Informing child maltreatment prevention efforts. *International journal of environmental research and public health*. 2022 Aug 25;19(17):10580.
- ²⁷ Anderson KL, Goodnight JA. Maternal use of corporal punishment and behavior problems in early childhood: A sibling comparison analysis. *Child Abuse & Neglect*. 2022 Jul 1;129:105679.
- ²⁸ Cuartas J. Corporal punishment and early childhood development in 49 low-and middle-income countries. *Child Abuse & Neglect*. 2021 Oct 1;120:105205.
- ²⁹ Gershoff ET, Grogan-Kaylor A. Spanking and child outcomes: Old controversies and new meta-analyses. *Journal of family psychology*. 2016 Jun;30(4):453.
- ³⁰ Telfar S, McLeod GF, Dhakal B, Henderson J, Tanveer S, Broad HE, Woolhouse W, Macfarlane S, Boden JM. Child abuse and neglect and mental health outcomes in adulthood by ethnicity: Findings from a 40-year longitudinal study in New Zealand/Aotearoa. *Child Abuse and Neglect*. 2023 Nov 1;145:106444.
- ³¹ Afifi TO, Ford D, Gershoff ET, Merrick M, Grogan-Kaylor A, Ports KA, MacMillan HL, Holden GW, Taylor CA, Lee SJ, Bennett RP. Spanking and adult mental health impairment: The case for the designation of spanking as an adverse childhood experience. *Child abuse & neglect*. 2017 Sep 1;71:24-31.

-
- ³² Liu B, Yang Y, Geng J, Cai T, Zhu M, Chen T, Xiang J. Harsh Parenting and Children's Aggressive Behavior: A Moderated Mediation Model. *Int J Environ Res Public Health*. 2022 Feb 19;19(4):2403.
- ³³ Crandall M, Chiu B, Sheehan K. Injury in the first year of life: risk factors and solutions for high-risk families. *Journal of Surgical Research*. 2006;133:7–10.
- ³⁴ Araujo MF, Silva EP, Ludermir AB. Maternal educational practices and mental health disorders of school-age children. *Journal de Pediatria*. 2023 Mar 1;99(2):193-202.
- ³⁵ Durrant J, Ensom R. Physical punishment of children: lessons from 20 years of research. *CMAJ*. 2012 Sep 4;184(12):1373-7
- ³⁶ Deater-Deckard K, Landsford JE, Dodge KA, Pettit GS, Bates JE. The development of attitudes about physical punishment: an 8-year longitudinal study. *Journal of Family Psychology*. 2003;17(3):351–360.
- ³⁷ Vlais-Cicvaric I, Prpic I, Boban M, Korotaj Z. Children's reflections on corporal punishment. *Public Health*. 2007;121(3):220–222.
- ³⁸ Whiting L, Whiting M, Whiting T, Whiting, L. Smacking a family perspective. *Paediatric Nursing*. 2004;16(8):26–28.
- ³⁹ NSPCC (2024). Give children equal protection from physical abuse. Available from <https://www.nspcc.org.uk/about-us/news-opinion/2024/2024-04-30/>.
- ⁴⁰ Available from https://ygo-assets-websites-editorial-emea.yougov.net/documents/NSPCC_PhysicalPunishment_240129_W.pdf.
- ⁴¹ Shin SH, Tomlinson CA, Nelson-Hence D, Ksinan Jiskrova G. Understanding the intergenerational cycle of trauma and violence: maternal adverse childhood experiences and parent-to-child aggression risk. *Journal of interpersonal violence*. 2023 Mar;38(5-6):4998-5018.

-
- ⁴² Lee SJ, Grogan-Kaylor A, Berger LM. Parental spanking of 1-year-old children and subsequent child protective services involvement. *Child Abuse and Neglect*. 2014 May 1;38(5):875-83.
- ⁴³ Heilmann A, Mehay A, Watt RG, et al. Physical punishment and child outcomes: a narrative review of prospective studies. *The Lancet* 2021;398:355-364.
- ⁴⁴ Roberts MW, Powers SW. Adjusting chair time-out enforcement procedures for oppositional children. *Behavior Therapy*. 1990;21:257–271.
- ⁴⁵ Wilson DR, Lyman RD. Time-out in the treatment of childhood behaviour problems: implementation and research issues. *Child & Family Behavior Therapy*. 1982;4:5–20.
- ⁴⁶ Welsh Government (2018). Removing the ‘defence of reasonable punishment’: a community version. Cardiff (Wales): Welsh Government. Available from <https://www.gov.wales/sites/default/files/consultations/2018-02/180109-legislation-easy-read-en.pdf>.
- ⁴⁷ Child Law Advice. Available from <https://childlawadvice.org.uk/information-pages/the-law-on-smacking-children/>.
- ⁴⁸ Department for Children, Schools, and Families (2007). Review of Section 58 of the Children Act 2004. Available from https://assets.publishing.service.gov.uk/media/5a7d60d640f0b60aaa294100/Review_of_Section_58_of_the_Children_Act_2004.pdf.
- ⁴⁹ <https://salford.worktribe.com/record.jx?recordid=3523181>
- ⁵⁰ <https://salford-repository.worktribe.com/output/3505181/draft-children-equal-protection-england-bill-proposal-2024>
- ⁵¹ Havighurst SS, Mathews B, Doyle FL, Haslam DM, Andriessen K, Cubillo C, Dawe S, Hawes DJ, Leung C, Mazzucchelli TG, Morawska A. Corporal punishment of children in Australia: The evidence-based case for legislative reform. *Australian and New Zealand journal of public health*. 2023 Jun 1;47(3):100044.

⁵² End Corporal Punishment. Corporal punishment of children in New Zealand. 2019. Available from <https://www.endcorporalpunishment.org/wp-content/uploads/country-reports/NewZealand.pdf>.

⁵³ APNZ. Eight prosecutions for smacking in six years of law. NZ Herald (2013). Available from <https://www.nzherald.co.nz/nz/eight-prosecutions-for-smacking-in-six-years-of-law/OEQKBZA4EMNOHIBMOQMJA7UYAU/>.

⁵⁴ Police (New Zealand). Eleventh review of Crimes (Substituted Section 59) Amendment Act 2007. 2013. Available from <https://www.police.govt.nz/news/release/34849>.

⁵⁵ Sentencing Act 2020.

⁵⁶ Victoria legal aid. Available from <https://www.legalaid.vic.gov.au/possible-outcomes-criminal-offences>.

⁵⁷ <https://www.gov.wales/ending-physical-punishment-children>

⁵⁸ End Corporal Punishment. From prohibition to elimination. Available from <https://endcorporalpunishment.org/prohibition-to-elimination/>.

⁵⁹ Linkenbach J, Perkins HW & DeJong W (2003). Parent's Perceptions of Parenting Norms: Using the Social Norms Approach to Reinforce Effective Parenting. Chapter 15 in HW Perkins (Ed). The Social Norms Approach to Preventing School and College Age Substance Abuse: A Handbook for Educators, Counselors, Clinicians, San Francisco, Jossey-Bass

⁶⁰ Parenting for Lifelong Health: A pragmatic cluster randomised controlled trial of a non-commercialised parenting programme for adolescents and their families in South Africa. *BMJ Global Health*. 2018;3:e000539

⁶¹ <https://www.gov.scot/groups/children-equal-protection-from-assault-scotland-act-implementation-group/>

⁶² <https://www.parentclub.scot/>

⁶³ <https://www.nhsinform.scot/ready-steady-baby/>

⁶⁴ End Corporal Punishment. Available from
<https://endcorporalpunishment.org/resources/research/>.

⁶⁵ Fussey E, Gerry F, Herbert B, S Havighurst, D Higgins, Schaff O, Rowland AG (2024). 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. London (UK): Royal College of Paediatrics and Child Health. Available from <https://www.rcpch.ac.uk/resources/equal-protection-from-assault-england-and-northern-ireland> (accessed 22 January 2025)