

Myths about a ban on hitting children

The campaign to ban the hitting of children raises a number of anxieties and questions.

Will a ban lead to parents being prosecuted for trivial smacks?

No. Just as adults are not prosecuted for trivial assaults on other adults, parents will not be prosecuted for trivial smacks. Instead, a ban on smacking coupled with a public education campaign is likely to reduce the need for prosecutions through changes in parental attitudes and practice. This is what happened in Sweden, where there has been no increase in prosecutions for parental assaults of children since the ban was introduced.

Will a ban lead to more children being taken into care?

No. A ban will not lead to more compulsory social work intervention in families or to the removal of children into care. Again, the Swedish experience shows a marked decline in out-of-family placements of children and of compulsory forms of intervention since the ban began.

Will a ban prevent parents using physical measures to restrain their children?

No. A ban will not prevent parents from using physical measures to protect or restrain their children. Nor will a ban absolve them of their duty to teach children good manners, the

difference between right and wrong, and how to behave respectfully towards others. Indeed, we can expect the greater use of positive, consistent and effective forms of discipline as a consequence of a ban on hitting children.

If parents are not going to be prosecuted, is a ban pointless?

A ban will result in significant changes in attitudes and practice. A ban will not represent an unenforceable or pointless measure. In Sweden, the majority of the public supported smacking before the ban, but now only 6% of under 35-year-olds support even the mildest form of physical punishment.

Further information

For more information about ending the physical punishment of children, visit the Children are Unbeatable! website at www.childrenareunbeatable.org.uk

If you are a parent or carer looking for help or support, contact ParentLine Scotland on 0808 800 2222. ParentLine Scotland is a free, confidential telephone helpline run by CHILDREN 1ST. The helpline is open Monday, Wednesday and Friday 9am to 5pm, and Tuesday and Thursday 9am to 9pm.

CHILDREN 1ST publishes a booklet, 'Tips to beat stress: count to ten and think again', which features hints for parents on how to cope with stressful situations with their children.

CHILDREN 1ST

For further information about CHILDREN 1ST and to order any of our publications, please contact:

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For over 120 years CHILDREN 1ST, the Royal Scottish Society for Prevention of Cruelty to Children, has been working to give every child in Scotland a safe and secure childhood.

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Giving Scotland's vulnerable and disadvantaged children a brighter future

Children and physical punishment

Children deserve the same protection from assault as adults. CHILDREN 1ST works to put an end to the physical punishment of children.

We firmly believe that adults should not be allowed to hit children. We also recognise that parents need to discipline their children. In order to protect the rights and interests of children, and equip parents with effective forms of discipline, CHILDREN 1ST works to establish a culture in which hitting children is never acceptable. This requires both public education on positive, non-violent forms of discipline, as well as legal reform to give children the same protection from assault as adults.

What is physical punishment?

Physical punishment is the use of physical force with the intention of causing a child to experience pain, but not injury, to correct or control the child's behaviour.

Background

Until 2003, a person with the lawful charge of a child under the age of 16 could administer physical punishment to that child under the Children and Young Persons (Scotland) Act 1937. The Children (Scotland) Act 1995 required that, in exercising this right, adults must act in 'the interests of the child'. While outlawing the assault, ill-treatment or neglect of a child, the 1937 Act therefore permitted the physical punishment of children so long as it amounted to 'reasonable chastisement'.

Over the years, physical punishment was banned in schools, publicly funded pre-school education, children's homes and foster care, until physical punishment could only take place within the family.

In 1998, however, the European Court of Human Rights found that the law in the UK regulating the physical punishment of children did not provide adequate protection. In *A v UK*, a nine-year-old boy who had been repeatedly beaten with a garden cane appealed to the Court under Article 3 of the European Convention on Human Rights which states that:

'No one shall be subjected to torture or to inhumane or degrading treatment.'

The Court held that beating with a garden cane with force on more than one occasion reached a level of severity prohibited by Article 3 and that the law in the UK failed to protect the boy. In reaching its decision as to whether or not the physical punishment constituted reasonable chastisement, the Court took into account the nature and context of the treatment, its duration, its physical and mental effects, and the sex, age and state of health of the child.

International law

The UK is a signatory to the United Nations Convention on the Rights of the Child. The Committee on the Rights of the Child periodically monitors our compliance with the Convention. In its most recent report, published in October 2002, the Committee reminded the UK that it had ignored its previous recommendations and those of the European Committee on Economic, Social and Cultural Rights to better protect children from physical punishment. The Committee 'deeply regretted' that the UK had persisted in retaining the defence of reasonable chastisement and had taken no significant action towards prohibiting all corporal punishment of children in the family. The Committee also stated that:

'governmental proposals to limit rather than to remove the 'reasonable chastisement' defence do not comply with the principles and provisions of the Convention... particularly since they constitute a serious violation of the dignity of the child... Moreover, they suggest that some forms of corporal punishment are acceptable and therefore undermine educational measures to promote positive and non-violent discipline.'

The Committee went on to advise the UK to:

'promote positive, participatory and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, engaging with children and parents and all those who work with and for them, and carry out public education programmes on the negative consequences of corporal punishment.'

The current legal position in Scotland

Despite the Committee's recommendations, in 2003, the Scottish Parliament passed the Criminal Justice (Scotland) Act. Section 51 of that Act prevents adults using implements, delivering blows to the head and shaking children as a physical punishment. While these specific practices are now prohibited, parents continue to enjoy special protection from the law when they physically punish a child.

In 'Children, physical punishment and the law: a guide for parents in Scotland', the Scottish Executive states that if a court is investigating the physical punishment of a child, as well as considering the actions prohibited by Section 51, it will consider:

- the child's age;
- what was done to the child, for what reason and what the circumstances were;
- the duration of the punishment and the frequency;
- how it affected the child (physically and mentally); and
- other issues personal to the child, such as their gender and state of health.

The Scottish Executive's guide also goes on to say that smacking is not an advisable method of disciplining children because it:

- can be dangerous. Adults, particularly if they are angry, can forget how delicate children are. What can feel like a light slap to an adult can potentially cause real harm to a small child;
- sets children the wrong example. Rather than correcting misbehaviour, smacking can teach children to hit out at people who are doing things they do not like, or who do not do what the child wants;
- has effects which last long after the physical pain dies away. Young children will not necessarily associate the physical punishment with their behaviour. It can make them angry and resentful, and can be damaging to their confidence and self-esteem; and
- smacking is not an effective way to teach children discipline.

Physical punishment in other countries

The physical punishment of children is illegal in 14 countries - Austria, Croatia, Cyprus, Denmark, Finland, Germany, Iceland, Israel, Italy, Latvia, Norway, Romania, Sweden and the Ukraine. In twelve of these countries, the ban on hitting children is a result of clear legislation outlawing the practice. In Italy and Israel, Supreme Court rulings have prohibited any form of physical punishment.

In many countries, legal reform has been accompanied by a high profile information campaign on positive parenting. In Germany, the introduction of the law was accompanied by a public education campaign entitled 'More respect for children'. One of its slogans was 'Help instead of punishment', stressing the fact that the law was intended to change public opinion and provide families with a means to move away from reliance on using force to resolve problems. The campaign was funded by central government, but was implemented by a combination of federal and local authorities, as well as non-governmental organisations.

Why ban physical punishment?

CHILDREN 1ST has welcomed the Scottish Parliament's attempts to ban some forms of punishment, but continues to campaign for full legal reform. A ban on all forms of physical punishment is needed to:

- support parents and carers, by providing a clear legal basis for the promotion of positive, non-violent forms of discipline by statutory and voluntary bodies working with families. Such discipline would reduce stress, improve family relationships and create sociable, self-disciplined and well-motivated children;
- tackle violence. Research shows that children firmly believe that physical punishment is wrong and that it sets a bad example to young children by teaching them that the use of violence is an acceptable way to respond;
- enhance child protection measures. A ban would enable child protection workers to give parents of children at risk of abuse a clear message that no level of physical punishment is acceptable. It would also ensure that children have a consistent level of protection which does not vary according to who is looking after them; and
- assert the equal human right of children to protection of their physical integrity. Challenging routine violence to children, the weakest members of society, is as important as challenging routine violence to women.

Physical punishment and domestic violence

CHILDREN 1ST has welcomed the public investment in measures to reduce domestic violence and we are particularly pleased at the Scottish Executive's plans to help children who witness domestic violence. However, we remain concerned that so little attention has been focused on the needs of children who are hit by their parents. CHILDREN 1ST believes that protecting children requires zero tolerance on violence, both in the community and in the home.

Positive parenting

Being a parent is perhaps the most valuable, responsible and demanding job that you can do. There is no one correct way of bringing up children and it is rarely 'plain sailing'. Some parents and carers need help to cope and that can include picking up a leaflet, accessing support from families, friends and

organisations, or calling a helpline. It is exceptional if adults manage to bring up a child without any help or support! With this in mind, in 1999, CHILDREN 1ST set up ParentLine Scotland, the national telephone helpline. Twenty-nine per cent of calls to the helpline from parents and carers relate to behaviour and discipline issues.

It is the experience of CHILDREN 1ST that many parents are already upset that they physically punish their child, but that they do not know what else to do. An analysis of calls concerning physical punishment to ParentLine Scotland shows that adults say one of two things:

“ I've just smacked my child - I **know it doesn't work**, but what else can I do?

I **don't want to smack** my children, but I don't know what else to do. ”

Parents do not like hitting their children and welcome effective, non-violent alternatives. A father who attended a family support project run by CHILDREN 1ST said:

“ I **learnt different ways to cope** with the kids' behaviour. I've found ways to keep them occupied. I've **learnt how to discipline your children without using force.** ”

CHILDREN 1ST understands that many parents want to get help so that they can learn to stop hitting their children. We believe that parents should be able to access information and services which meet their needs. We have urged the Scottish Executive to actively promote positive parenting and alternative forms of discipline.