

Children (Equal Protection from Assault) (Scotland) Bill

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

**Consultation by John Finnie MSP
Scottish Green Party Member for the Highlands and Islands**

QUESTIONS

SECTION 1 - ABOUT YOU

1. Are you responding as:

- an individual – in which case go to Q2A
 on behalf of an organisation? – in which case go to Q2B

2A. Which of the following best describes you? (If you are a professional or academic whose experience or expertise is not relevant to the proposal, please choose “Member of the public”)

- Politician (MSP/MP/Peer/MEP/Councillor)
 Professional with experience in a relevant subject
 Academic with expertise in a relevant subject
 Member of the public

2B. Please select the category which best describes your organisation:

- Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)
 Commercial organisation (company, business)
 Representative organisation (trade union, professional association)
 Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
 Other (e.g. club, local group, group of individuals, etc.)

3. Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

- I am content for this response to be attributed to me or my organisation
 I would like this response to be anonymous (the response may be published, but no name)
 I would like this response to be confidential (no part of the response to be published)

Name/organisation: The Coalition for Racial Equality and Rights (CRER)

4. Please provide details of a way in which we can contact you if there are queries regarding your response. (Email is preferred but you can also provide a postal address or phone number. We will not publish these details.)

Contact details: Rebecca Marek: rebecca@crer.org.uk

SECTION 2 - YOUR VIEWS ON THE PROPOSAL

Aim and approach

1. Which of the following best expresses your view of the proposal of giving children equal protection from assault by prohibiting all physical punishment of children?

- Fully supportive
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed
 Unsure

Please explain the reasons for your response.

CRER strongly advocates human rights and equality. As a rights-based organisation, we are supportive of this proposal, as it ensures the human rights of children are respected and protected in statute.

2. Could the aims of this proposal be better delivered in another way (without a Bill in the Scottish Parliament)?

- Yes (if so, please explain below)
 No
 Unsure

Please explain the reasons for your response.

CRER is convinced that ending the common law position of 'justifiable assault' is the best method to achieve equal protection from assault for children. We are also supportive of the proposed Bill's approach to repeal relevant parts of the s.51 of the Criminal Justice (Scotland) Act 2003 to allow the common law offence of assault to apply to children as well as adults. This, we believe, emphasises that there should be no difference in the law concerning protection from assault between children and adults, as all should be afforded the same human rights.

3. What do you think would be the main advantages, if any, of giving children equal protection from assault by prohibiting all physical punishment of children?

CRER sees the main advantages as those outlined in the consultation document:

- Physical punishment has negative consequences for families, children, and society, and may contribute to increased levels of violence.
- Physical punishment has the potential to escalate into physical abuse.
- Changing the law will bring Scotland more in line with international human rights law and the UN Convention on the Rights of the Child.

We further see this as an advancement of equality for children.

4. **What do you think would be the main disadvantages, if any, of giving children equal protection from assault by prohibiting all physical punishment of children?**

CRER does not anticipate any disadvantages

Financial implications

5. **Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have:**

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

Please explain the reasons for your response.

Equalities

6. **What overall impact is the proposed Bill likely to have for the following protected groups (under the Equality Act): race, disability, sex, gender re-assignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity)?**

- Positive
- Slightly positive
- Neutral (neither positive nor negative)
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response (if you are of the view that there will be different overall impacts for different groups please specify in your comments)

If enacted with proper consideration for race equality, we believe this proposed bill will have positive outcomes for all children and their families. However, for BME children to enjoy the same benefits as white children, significant consideration must be given to the potential negative impact of institutional racism and the need for intercultural competency training for practitioners.

Practitioners may find it challenging to address physical punishment within BME families. A 2009 report from the Joseph Rowntree Foundation found that physical punishment and discipline were the issues mentioned most frequently in relation to

cultural challenges faced by practitioners, especially in ethnically diverse areas.¹ This links to an issue we will further detail in response to Question 9, which is that there is no evidence to suggest that rates of physical punishment are higher in BME families in Scotland and the UK, yet a stereotype persists.

In some cases, white practitioners may hesitate to challenge physical punishment (and even physical abuse and neglect) for fear of being seen as racist. Despite inquiries and training following cases such as Victoria Climbié² and Khyra Ishaq³, there are concerns that social workers are not fully equipped to work with families from BME groups, and are wary of addressing cultural and religious practices and beliefs that may be understood as harmful to children.⁴

By maintaining a baseline of what is acceptable parenting and what is harmful to children, the hesitancy to address cultural or religious practices can be more readily addressed. As such, removing the ‘justifiable assault’ defence and guaranteeing equal protection from assault would provide more clarity to practitioners and better equip them to address harmful practices.

High quality training is needed to mitigate the fear of being seen as racist, as this can prohibit the protection of children. It is worth noting that failing to protect BME children due to fear of being perceived as racist is in itself a form of institutional racism.

In its “State of Children’s Rights in Scotland 2016” report, Together notes that there is a need for services that are confident in cultural awareness.⁵ CRER believes that intercultural competency training, alongside evidence-based anti-racism training, can fill this gap. Intercultural competency training is a structured approach to building awareness and understanding of different cultural behaviours to create a workforce which is able to positively engage patterns of difference and commonality in values, beliefs, and practices both within the dominant cultural group and across cultural groups.

We are expectant that the need for this training and upskilling will be addressed in the proposed bill.

7. If you believe there is a negative impact in what ways could any negative impact of the Bill on any of the protected groups be minimised or avoided?

Any potential negative or differential impact on BME groups can be addressed by the provision of mandatory intercultural competency training and anti-racism training for practitioners who will likely encounter instances of physical punishment of children.

Sustainability of the proposal

¹ Joseph Rowntree Foundation (2009). [Assessment of parenting and parenting support needs: A study of four professional groups.](#)

² The Guardian (2002). [Police ‘were racist’ in Climbié case.](#)

³ The Guardian (2010). [Khyra Ishaq review reveals how mother intimidated professionals.](#)

⁴ Community Care (2011). [Avoiding cultural and racist traps in child protection.](#)

⁵ Together (2016). [State of Children’s Rights in Scotland.](#)

8. Do you consider that the proposed bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

- Yes
 No
 Unsure

General

9. Do you have any other comments or suggestions on the proposal?

CRER notes that the consultation document cited a report that identified race as another factor in the prevalence and instances of corporal punishment in studies in the USA. There are other studies that indicate that BME groups are more likely to utilise physical punishment.

However, there are also studies that have found that BME groups are less likely to utilise and be supportive of physical punishment than the white population. For instance, “A study into the views of parents on the physical punishment of children for the Department of Children, Schools, and Families” found that, in England and Wales: ⁶

- White parents were more likely than those in BME groups to say that they utilise ‘smacking’ in disciplining children (20% of BME parents vs. 24% of all parents)
- BME parents are more likely than average to say that they have never smacked any of their children (49% of BME parents vs. 38% of all parents)
- White parents are more likely than BME parents to disagree that smacking a child is as unacceptable as hitting an adult (38% of BME parents vs. 47% of white parents)

Furthermore, the Joseph Rowntree Foundation’s “Parenting in multi-racial Britain” states that the finding of its study, “challenges the supposition that physical punishment is more prevalent or harsh in some minority cultures.” Despite the stereotype that some ethnic groups utilise harsher punishment, the research found no significant difference between ethnic groups.⁷

We are not aware of any study in Scotland that compares the attitudes towards physical punishment of BME and white parents, and studies conducted in the rest of the UK and in other countries conflict. As such, CRER does not believe that it is useful to compare rates of smacking among ethnic groups. Rather than being a constructive exercise, we believe this may contribute to the exact attitudes and hesitation that prevent or inhibit practitioners from acting on cases which occur in BME families due to cultural stereotyping and fear of being perceived as racist. It may be more beneficial to speak instead about the need for intercultural awareness and anti-racism training, recognising that all children deserve equal protection from assault, regardless of their ethnic background.

⁶ Ipsos MORI (2007). [A study into the views of parents on the physical punishment of children for the Department of Children, Schools, and Families.](#)

⁷ Joseph Rowntree Foundation (2006). [Parenting in multi-racial Britain.](#)

Aside from issues related specifically to BME groups, CRER would also ask that consideration be given to how awareness will be raised following passage of this proposed bill, and how children could seek support and make complaints if they are experiencing assault and physical punishment.