



Policy report

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

April 2024



PAFRA
Parenting & Family
Research Alliance



**End Corporal
Punishment**

RCPCH
Royal College of
Paediatrics and Child Health
Leading the way in Children's Health

Policy report

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

17 April 2024

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Contents

Foreword	4
At a glance: the current situation for children in England and Northern Ireland and what this report adds to the case for #EqualProtection for children in those countries	5
Executive summary	7
1. Introduction	9
1.1 What does 'Equal Protection' mean?	9
1.2 Why is the RCPCH taking forward this work?	9
1.3 What about unintended consequences?	9
1.4 What about the rest of the UK?	10
2. The Why: Health impacts of physical punishment of children- considering the evidence basis	11
2.1 Introduction	11
2.2 Making the health case for ending physical punishment	11
2.3 Presenting a balanced view: arguments purportedly in favour of physical punishment of children	12
2.4 Supporting families - the importance of a law change	13
3. The What: Exploring the required legal change to end physical punishment of children	16
3.1 Recommendations	16
3.2 Precedent for legal changes to physical punishment laws	16
3.3 Current legal arrangements - England	17
3.4 Recommended legal amendments - England	18
3.5 Current legal arrangements - Northern Ireland	19
3.6 Recommended legal changes- Northern Ireland	19
3.7 Preventing unintended consequences- additional legal provisions	20
3.8 Criminalisation of parents	20
3.9 Children and families from minority groups	22
3.10 In summary	22
4. Where Next: Going beyond the legal change to end physical punishment of children	23
4.1 Putting equal protection for children into practice	23
4.2 Enacting and implementing prohibition	23
4.3 The key steps in moving from prohibition to elimination of physical punishment	23
4.4 Plan and Coordinate	23
4.5 Supporting positive parenting	25
4.6 Evaluate	26
Conclusion	27
References	28
Bibliography	31

Foreword

I am delighted that the Royal College of Paediatrics and Child Health is launching this important report: the first report to be released in my new role as the College's President.

Any kind of physical abuse which is inflicted by an adult on an adult is not tolerated in law, and the law must clarify that physical abuse by an adult on a child is also unacceptable.

I am proud to live and work in Aberdeen, Scotland, the first country in the UK to remove the "reasonable punishment" defence from law in 2020, closely followed by Wales in 2022. As a college we are already seeing the positive impact this is having on how paediatricians and social workers are able to engage with families to support positive parenting practices. It is clear that there is real consensus across the public across all UK nations in support of legislation to end physical punishment of children. This is a real opportunity for England and Northern Ireland to adopt best practice and make a change in the interest of children nationally.



Professor Steve Turner

The negative health impacts of physical punishment on children are clearly outlined throughout this report. It is important that we consider the necessary steps to ensure that families are supported to move away from these practices in conjunction with a change in law. Additionally, steps must be taken to prevent any unintended negative consequences arising as a result of changing the law. This report sets out clearly the considerations required in order to ensure this is the case.

I urge both current and aspiring policy makers to embrace the recommendations of this report in full. We need to rapidly bring Equal Protection to children in England and Northern Ireland and continue to shape the UK into a safe, respectful environment where children and families are supported to flourish, happily, healthily, and safe from harm.

A handwritten signature in black ink, appearing to read 'S Turner', written in a cursive style.

Professor Steve Turner
President, RCPCH
Consultant Paediatrician

At a glance: the current situation for children in England and Northern Ireland and what this report adds to the case for #EqualProtection for children in those countries



Professor Andrew Rowland

1. What we already know

- a. Within the UK, children in England and Northern Ireland are the only people who are not fully protected in law from assault.
- b. 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.
- c. 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.
- d. Physical punishment of children is less effective as a long-term strategy for improving behaviours than other approaches.
- e. Internationally 65 states have full prohibition of physical punishment of children (starting with Sweden in 1979 – over 40 years ago). 27 more states have committed to reforming their laws to achieve a complete legal ban.

2. What this report adds

- a. **The time is right, and there is public support, to remove the “reasonable punishment” defence from law in England and Northern Ireland.**
- b. **There is overwhelming academic evidence which clearly demonstrates that physical punishment of children is abusive and adversely affects children.**
- c. **The adverse health impacts of physical punishment of children include poor mental health, and social, behavioural and emotional difficulties.**
- d. **Children who are physically punished are at a heightened risk of serious physical assault.**
- e. **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.**

Moves to prevent family violence are progressive, but the position of a society where physical punishment of children is permitted yet child abuse is forbidden 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.

This report proposes legislative change as a deterrent to prevent cases of physical punishment of children in England and Northern Ireland. Further, the report summarises the additional measures that are needed to bring about restorative approaches that both protect the child and maintain and support the parent child relationship.

I commend this report to all policy-makers and impress upon them – for the benefit of current children and our future generations – that action **must** urgently be taken to bring England and Northern Ireland in line with Scotland and Wales to give children the equal protection they need, that they deserve, and that they are entitled to.

A handwritten signature in black ink, consisting of the letters 'A', 'R', and 'R' in a stylized, cursive font, with a horizontal line underneath.

Professor Andrew Rowland

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Executive summary

In England and Northern Ireland, children 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 and the Law Reform (Miscellaneous Provisions) (Northern Ireland Order) 2006, which means that if a parent physically assaults their child, they may be able to argue (either as a means of avoiding prosecution or, ultimately, in court) that this was ‘reasonable punishment’.

The evidence, as set out in **Section 2** of this report, shows that the use of physical punishment has negative consequences for children’s physical and mental health, social, behavioural, and emotional well-being, parental engagement and school engagement. There is also evidence that physical punishment escalates in severity, putting children who are physically punished at higher risk of experiencing significant harm through serious physical assault.

Scotland and Wales have paved the way for the United Kingdom to become a more equal society by removing the reasonable punishment defence from their legislation. This report sets out the evidence basis for England and Northern Ireland to follow suit and do the same by examining the evidence against the use of physical punishment with regard to children’s health, well-being and healthcare practice. Political leaders in England and Northern Ireland now have an opportunity to do the same and to tangibly demonstrate their commitment to champion children’s rights, improve outcomes for children and protect them from harm and to promote and protect the health, wellbeing, and success of the current and future generations of people living here in the UK.

The recommendations from this report demonstrate to UK Government policymakers both the practicalities of removing this defence from law, and also the appropriate next steps to secure a reduction in the harmful practice of physical punishment as follows:

Number	Recommendation	For the attention of
1	We recommend that the Secretary of State for Education commences the legislative process necessary to change the law to remove the reasonable punishment defence (as set out in Section 3 of this report) in sufficient time to conclude enactment of these prior to the next UK general election.	Department for Education (England)
2	We recommend that the Education and Health Ministers for Northern Ireland lead the Northern Ireland Assembly in amending the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006) to remove the reasonable punishment defence from Northern Irish Law.	Department of Education (NI)
3	We recommend that all political parties incorporate removing the reasonable punishment defence in their general election party manifesto, and if appointed to UK Government, signal the legislative change will be enacted in the first wave of new legislation after formation of the new Parliament, with a specific commitment set out in the King’s speech.	All political parties

4	The Crown Prosecution Service (CPS) (England) and Public Prosecution Service (PPS) (NI) should issue guidance on prosecuting offences relating to the physical assault of children by their parents which requires legal professionals to consider the best interests of the child and their family in their prosecution decisions.	The Crown Prosecution Service (England) and the Public Prosecution Service (NI)
5	The Sentencing Council (England) and The Lord Chief Justice Sentencing Group (NI) should produce a sentencing guideline for those people charged with physical punishment of children making clear that custodial sentences should be avoided except in the most serious of cases.	The Sentencing Council (England), The Lord Chief Justice Sentencing Group (NI)
6	The Department for Education (England) and the Department of Education (NI) should develop and adopt a cross-sector Equal Protection Plan to identify and brief all services working with children; to devise evaluation and monitoring processes; to set out communication strategies; and to agree a budget outside of the law change.	Department for Education (England), Department of Education (NI)

Figure 1: Table of recommendations

1. Introduction

1.1 What does 'Equal Protection' mean?

In England and Northern Ireland, children are the only group of people who are not fully protected from physical assault. This is because:

- In **England**, a parent can use the defence of 'reasonable punishment' to justify hitting a child (Section 58. [Children Act 2004](#)).
- **Northern Ireland** also uses the defence of 'reasonable punishment' (Article 2. [Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2006](#)).

This means that if a parent physically assaults their child, they may be able to argue, either as a means of attempting to avoid prosecution or in court, that this was 'reasonable punishment' and therefore was not breaking the law prohibiting assault. Adults in England and Northern Ireland are protected in law from all forms of physical assault. If an adult physically assaults another adult, the victim is protected in law. As a result, children are not **equally protected** from physical assault when compared to their adult counterparts.

There is overwhelming academic evidence clearly demonstrating that physical punishment is abusive and, as such, is a form of physical abuse. In this report we use the term "physical punishment" to mean smacking, spanking, and/or corporal punishment.

This report sets out the case for the removal of 'reasonable punishment' defences in English and Northern Irish Law in order to secure Equal Protection for children, and provides guidance to law makers as to how this change can be actioned practicably and in the current political environment. Additional recommendations are made as to how families can be supported outside of legal change to move away from the use of physical punishment as punishment to facilitate an improved reduction in the physical punishment of children.

1.2 Why is the RCPCH taking forward this work?

The [Royal College of Paediatrics and Child Health \(RCPCH\)](#) is responsible for training and examining paediatricians, setting professional standards and informing research and policy. RCPCH ('the College') has over 22,000 members in the UK and internationally. We work to transform child health through knowledge, research and expertise, to improve the health and wellbeing of infants, children and young people across the world.

The health impacts of physical punishment are well documented and are set out in **Section 2** of this report. These include poor mental health, social, emotional and behavioural issues and a heightened risk of serious physical assault. Additionally, our members have shared with us the challenges they face when supporting and educating families in that in certain circumstances there can be a defence to using physical punishment. This can make it difficult to set out the importance of not opting to use physical punishment and to support families to make choices which better protect their children.

1.3 What about unintended consequences?

With any introduction of new policy, there is a risk of unintended consequences. For many, the criminalisation of parents, and the significant impact this can have on outcomes for children,

is a concern when considering the introduction of Equal Protection. This report addresses this important concern in **Section 3**, and sets out recommendations to prevent unnecessary and harmful criminalisation of parents. The recommendations set out in this report are intended to be taken as a full package together with the removal of the reasonable punishment defence, as they have been crafted to secure a true reduction in physical punishment of children and to avoid other unintended consequences.

The proposed legislation change is referred to as 'aspirational legislation'. This means that the goal of the law change is not to prosecute and criminalise, but to change societal and cultural norms and change public behaviour, so that beliefs about the acceptability of physical assault of children aligns with beliefs about acceptability of physical assault of adults. We have seen this happen successfully in Wales and Scotland, where RCPCH members and fellows working in child protection tell us they simply don't see physical punishment used in standard parenting practice following the legal changes in those countries.

1.4 What about the rest 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](#). The Act came into force on 07 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](#). The Act came into force on 21 March 2022. The Wales Safeguarding Procedures Project Board has published guidance on safeguarding responses where a child is affected by physical punishment.

These changes mean that children in Scotland and Wales are now Equally Protected from physical abuse in their countries. This report calls to align the rights of children in England and Northern Ireland with those in the other nations.

2. The why: Health impacts of physical punishment of children- considering the evidence basis

2.1 Introduction

The negative health impacts of physical abuse in childhood are well documented and include increased adverse mental health; poorer parent-child relationships; and a risk of significant harm and serious assault.¹ This section will outline the evidence basis for striving to end physical punishment of children in the context of health and family support, and with regard to child protection practices both in the healthcare space and beyond. **Section 4** of this report explores the evidence available from countries and regions who have removed the reasonable punishment defence from law, in order to better understand the overall impact for children and common factors in reducing the physical abuse of children.

2.2 Making the health case for ending physical punishment

Physical punishment of children is a harmful practice with well documented adverse effects on children (including vulnerable children).^{1, 2, 3, 4, 5, 6, 7, 8}

Physical punishment is consistently associated with a variety of negative health and developmental consequences for children,⁹ most significantly increasing their risk of experiencing physical abuse,^{10, 11, 12} and increasing their risk of experiencing mental health problems by up to 2.6 times.¹³ Therefore, preventing physical punishment is necessary for healthy child development, reducing the risk of further violence, and upholding children's rights to protection.¹⁴

Physical abuse has been shown to have a compounding impact on children, with evidence showing that children who experience increasing levels of parental aggression become more aggressive themselves over time and develop 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 being seven times more likely to be seriously assaulted (for example punched or kicked) than those who have not been physically punished and 2.3 times more likely to suffer an injury requiring medical attention than those who have not been physically punished.¹⁵

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,¹⁶ 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. 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 in this way as they grow older.¹

So long as 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 on 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.¹⁶ More information on supportive family interventions is provided in **Section 4** of this report.

2.3 Presenting a balanced view: arguments purportedly in favour of physical punishment of children

2.3.1 Why physical punishment of children is sometimes promoted or justified

The practice of using physical punishment of children as part of discipline is deeply embedded in cultural views, government law and social policy¹. Physical punishment of children is used throughout the world as a disciplinary strategy, although an increasing number of countries have outlawed this. Research shows that the negative outcomes of physical punishment are not changed or reduced in differing parental contexts.¹⁷ Understanding why some parents use physical punishment of their children is inextricably linked to achieving reversal and obliteration of this practice.^{18, 19, 20, 21}

Some proponents of physical punishment of children believe that such punishment will teach respect for authority and failure to physically punish the child(ren) will lead to uncontrolled and disrespectful behaviour. This implies that lack of sufficient discipline increases the level of societal discord and violence.²² A review of evidence surrounding physical punishment of children¹ described that some people believe that parents need to be empowered with more effective alternatives to physical punishment, not disempowered by bans on traditional disciplinary tactics,²³ that occasional smacking does no harm^{24, 25} and that although the harmful effects of physical abuse and other extreme punishments are clear, a blanket injunction is not justified.²⁶ The recommendations in this report propose a joint approach which simplifies practice in the children's sector, upholds children's rights in law (**Section 3**), and supports families and communities to make positive changes to parenting practices (**Section 4**).

2.3.2 Do views differ between those who were physically punished and those who were not?

Published work, from over a decade ago, summarised that those who reported experiencing more physical punishment during childhood, but also more parental warmth or support, hold more favourable attitudes toward physical punishment of children, with those who reported experiencing more physical punishment during childhood and also more parental impulsiveness hold less favourable attitudes.²⁷ Similarly, it has been shown that even recognising the potential harm associated with physical punishment of children does not necessarily detract from a belief that it should be endorsed.²⁸ A study by Gagne et al shows that differences in understanding of how physical punishment is defined may be the cause of different opinions in this space.²⁸ Those who believed that physical punishment (in this case "spanking" (smacking)) never or seldom results in physical injuries were the most in favour of spanking. On the other hand, respondents

who reported more severe physical violence or psychological abuse in childhood were less in favour of the practice,²⁸ demonstrating a difference in thresholds of acceptability. Simplifying the law by removing the reasonable punishment defence is likely to play a part in reducing the potential for subjectivity to be applied in this space.

2.3.3 Research on children, adolescent and adult views towards physical punishment of children

Evidence shows that adolescents' views on physical punishment varies widely.¹ Studies suggest 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 had received.²⁹ It has been previously reported that some children may accept physical punishment as a parental right and as part of the parental role,³⁰ but also that others believe that violence is not going to solve anything: all that it will do is to hurt children and cause more problems and that smacking children should not be legal under any circumstances.³¹ However, this work is from around two decades ago and more recent attempts to ascertain the views of the public call into question the continued applicability of the findings to modern, current society.

The NSPCC has periodically explored public views on the law in relation to physical punishment of children, having most recently surveyed 3000 adult voters in 2023, finding that 67% believe physical punishment of children is unacceptable and approx. 63% believe that a law change should be made to ensure this.

2.3.4 Why might parents use physical punishment of their children?

Parents are more likely to use physical punishment of their children if they strongly favour it and believe in its effectiveness³ or were physically punished as children;³² they have a cultural background that they perceive approves of the use of physical punishment;^{33,34} they are socially disadvantaged;³⁵ they report being frustrated or aggravated with their children on a regular basis;³⁶ the child is under the age of five years or the parent is under 30 years of age;³⁷ or they are experiencing stress (such as financial hardship, relationship conflict), adverse mental health symptoms or low emotional well-being.³⁸ Understanding the context in which physical punishment may be used is key to implementing extra-legislative mechanisms to effect social change. This is explored further in **Section 4** of this report.

2.4 Supporting families - the importance of a law change

2.4.1 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, including those to change society's views towards physical punishment of children.⁹ 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.³⁹ Physical punishment of children should be considered an ACE and addressed in efforts to prevent violence.¹⁴

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 any children (including infants and toddlers). For optimal benefits, efforts to educate parents regarding alternative forms of discipline should begin during the child's first year of life⁴⁰ or, arguably, during the antenatal period.

2.4.2 Protecting children's rights and reducing ineffective strategies for behavioural management

Physical punishment of children is no more effective as a long-term strategy for improving behaviours than other approaches,⁴¹ and reliance on physical punishment makes other disciplinary strategies less effective.⁴² It is in this context that the continued use of physical punishment of children conflicts with international human rights law.¹

2.4.3 The benefits to individual children, families and professionals

Having clear legislation which clearly sets out that physical punishment of children is unlawful in all circumstances, is protective of, axiomatically, the child or children living in that environment and also, paradoxically, the wider family. The intention of legislative change, as set out in **Section 3** of this report, is not to criminalise parents. Rather, the intention is to produce a multi-factorial contribution to the better safeguarding of all children – including those where it is suspected that physical abuse has occurred. At the present time the position that exists whereby physical punishment is unlawful, but a parent may have a defence in certain circumstances does not provide the clarity, transparency, and plainly understandable protection that children need, deserve and are entitled to.

As set out in **Section 3**, 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 Children Act 2004, 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. Physical punishment of children was banned in Scotland in 2020 and was followed in Wales in 2022, prompting renewed calls for the UK Government to outlaw the practice in England and Northern Ireland. 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.

From a health point of view a practitioner must be in the position where, on the solid foundation of the illegality of physical punishment, they are able to provide clear, legally supported, and

unambiguous advice to families. Additionally, removing the defence will help practitioners to make a distinction between whether a child has suffered at the hands of a parent who had a momentary loss of control versus a child who is subjected to regular, repeated, prolonged, or significant punishment behind closed doors and is experiencing abuse, regardless of whether that physical punishment is leaving a mark on the child.

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.¹

3. The what: Exploring the required legal change to end physical punishment of children

3.1 Recommendations

This section, addressed to the English and Northern Irish Governments and lawmakers, sets out the case for legal change in line with changes already made in Wales and Scotland, as well as the specific changes required in each nation and how these can be enacted. Most recent data collected by the NSPCC in 2023 shows that 67% of voting adults believe that physical punishment of children is wrong, and a further 63% feel that the law should specifically be changed to prevent any suggestion that physical punishment of children is lawful or reasonable. It is clear that the general public are in favour of a change which better protects children from abuse, and this section therefore makes the following core recommendations:

Recommendation 1:

We recommend that the Secretary of State for Education commences the legislative process necessary to change the law to remove the reasonable punishment defence (as set out in **Section 3** of this report) in sufficient time to conclude enactment of these prior to the next UK general election.

Recommendation 2:

We recommend that the Education and Health Ministers for Northern Ireland lead the Northern Ireland Assembly in amending the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 to remove the reasonable punishment defence from Northern Irish Law.

Recommendation 3:

We recommend that all political parties incorporate removing the reasonable punishment defence in their general election party manifesto, and if appointed to UK Government, signal the legislative change will be enacted in the first wave of new legislation after formation of the new Parliament, with a specific commitment set out in the King's speech.

3.2 Precedent for legal changes to physical punishment laws

Internationally 65 states have full prohibition of physical punishment of children, starting with Sweden in 1979 – over 40 years ago. 27 more states have committed to reforming their laws to achieve a complete legal ban.

Domestically, laws regarding the physical punishment of children have changed over time, in line with recognition that physical punishment is harmful to children and not an effective or safe way to discipline children. The timeline below, created by the Welsh Government when making the case for their own legal change, documents legal changes in the UK in relation to physical punishment up to 2017.

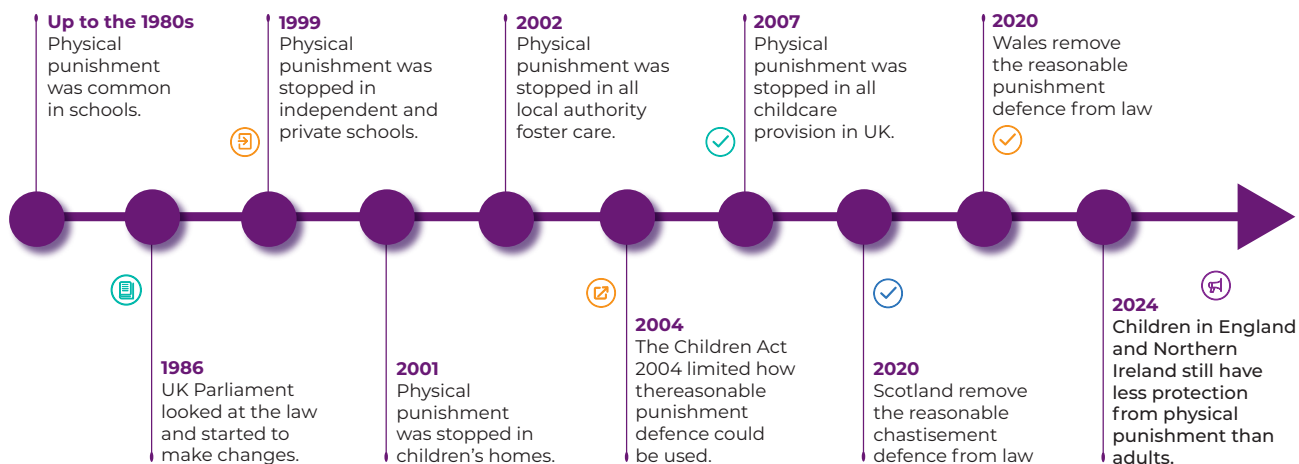


Figure 2: Timeline of Physical Punishment Legislation in the UK. Edited from original source:

<https://www.gov.wales/sites/default/files/consultations/2018-02/180109-legislation-easy-read-en.pdf>

In England and Northern Ireland, the case remains the same as in 2017— children have less protection from physical assault (punishment) than adults. This section outlines the required legal change to both laws, in order to remove this imbalance.

3.3 Current legal arrangements - 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](#), which states:

58. Reasonable Punishment

- (1) In relation to any offence specified in subsection (2), battery of a child taking place in England cannot be justified on the ground that it constituted reasonable punishment.
- (2) The offences referred to in subsection (1) are—
 - (a) an offence under section 18 or 20 of the Offences against the Person Act 1861 (c. 100) (wounding and causing grievous bodily harm);
 - (b) an offence under section 47 of that Act (assault occasioning actual bodily harm);
 - (c) an offence under section 1 of the Children and Young Persons Act 1933 (c. 12) (cruelty to persons under 16).
 - (d) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).
- (3) Battery of a child taking place in England causing actual bodily harm to the child cannot be justified in any civil proceedings on the ground that it constituted reasonable punishment.
- (4) For the purposes of subsection (3) “actual bodily harm” has the same meaning as it has for the purposes of section 47 of the Offences against the Person Act 1861.
- (5) In section 1 of the Children and Young Persons Act 1933, omit subsection (7).

Figure 3: Section 58. Children Act 2004.

This means that, according to the Crown Prosecution Service, 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 ignoring some physical battery with decisions based on the severity of a child's physical injuries and the pain they've experienced rather than the fact of assaulting a child. The logical result is variations in the extent to which children are protected from assault.

In 2007, the then Department for Children, Schools and Families published a review of Section 58 of the Children Act to assess the impact of limiting the reasonable punishment defence through the provisions set out in Figure 3. 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 has improved as a result of Section 58's effect. Taking this further by removing any defence for physical punishment from relevant legislation is likely to strengthen these effects further, continuing to shift parental practice and more explicitly protect children by law.

3.4 Recommended legal amendments- England

This report recommends that the substitutions and insertions made via the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 are mirrored in England in the Children Act 2004 as follows:

Abolition of reasonable punishment of children in England

- (1) The common law defence of reasonable punishment is abolished in relation to corporal punishment of a child taking place in England
- (2) Accordingly, corporal punishment of a child taking place in England cannot be justified in any civil or criminal proceedings on the ground that it constituted reasonable punishment.
- (3) Nor can corporal punishment of a child taking place in England be justified in any civil or criminal proceedings on the ground that it constituted acceptable conduct for the purposes of any other rule of the common law.

The removal of the below section from the Children Act 2004, which would be surplus to requirement following the alignment of England and Wales.

- (4) For the purposes of this section, "corporal punishment" means any battery carried out as a punishment.
- (5) In section 58 of the Children Act 2004 (c. 31) (reasonable punishment)—
 - (a) in subsection (1), after "battery of a child" insert " taking place in England ",
 - (b) in subsection (3), after "Battery of a child" insert " taking place in England ",
 - (c) the heading becomes " Reasonable punishment: England ".

3.5 Current legal arrangements- Northern Ireland

Northern Ireland also uses the defence of ‘reasonable punishment’ in [Article 2 of the Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2006](#), which states that:

Physical punishment of children

2.—

- (1) In relation to any offence specified in paragraph (2), battery of a child cannot be justified on the ground that it constituted reasonable punishment.
- (2) The offences referred to in paragraph (1) are—
 - (a) an offence under section 18 of the Offences against the Person Act 1861 (c. 100) (wounding, or causing grievous bodily harm, with intent);
 - (b) an offence under section 20 of that Act (malicious wounding or grievous bodily harm);
 - (c)
 - (d) an offence under section 47 of that Act (assault occasioning actual bodily harm and common assault);...
 - (e) an offence under section 20(1) of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34) (cruelty to persons under 16).
 - (f) an offence under section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (non-fatal strangulation or asphyxiation).
- (3) 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.
- (4) For the purposes of paragraph (3), “actual bodily harm” has the same meaning as it has for the purposes of section 47 of the Offences against the Person Act 1861.
- (5) In section 20 of the Children and Young Persons Act (Northern Ireland) 1968, subsection
- (6) is hereby repealed.

Figure 4: The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006

This again means that, in cases of common assault, legal professionals are expected to judge for each individual case, whether the punishment was “reasonable and moderate”, meaning that subjective decisions are made on the severity of a child’s physical injuries and the pain they’ve experienced, and there could be variations in the extent to which children are protected from assault.

3.6 Recommended legal changes- Northern Ireland

This report recommends that the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 is amended as follows in order to remove the defence of reasonable punishment:

1, Abolition of common law defence of reasonable punishment

- (1) The common law defence of reasonable punishment is abolished in relation to corporal punishment of a child taking place in **Northern Ireland**
- (2) Accordingly, corporal punishment of a child taking place in **Northern Ireland** cannot be justified in any civil or criminal proceedings on the ground that it constituted reasonable punishment.
- (3) Nor can corporal punishment of a child taking place in **Northern Ireland** be justified in any civil or criminal proceedings on the ground that it constituted acceptable conduct for the purposes of any other rule of the common law.
- (4) Article 2 of the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 is also abolished

3.7 Preventing unintended consequences- additional legal provisions

The impacts of legislative changes in the UK can vary amongst different communities. The legislative proposals set out in this report would be aspirational legislation. That is to say that any new law would set out the legal framework for the further protection of children's rights in England and Northern Ireland with the aim being that by entrenching a particular right, in this case the right, if you are a child, to be protected from physical punishment, in the long-term a less unjust society will be produced.

A society must be careful about passing too many laws that are aspirational in nature and which that same society is not prepared to enforce.⁴³ However, the situation, insofar as physical punishment of children is concerned, is so fundamental to the future protection of children's rights that legislative change is required. This is justified by the potential significant increase of future success of adult society in England and Northern Ireland – that society being, at least in part, populated with children who have been protected from physical harm right throughout their childhood, and who have become the adults in that society.

Any such legislative change must find a way of diminishing human suffering, increasing human equality and increasing the ability of all children to start, and continue, their lives with equal chances of happiness,⁴⁴ healthily and safe from harm. Children should be allowed, encouraged, and supported to grow up in child safe communities with happy, healthy, and safe children and young people at their hearts.

The legislative changes proposed in this report will, in effect, prohibit the physical punishment of children in England and Northern Ireland. It is important to be mindful that this change may have a much greater impact on some communities and may contribute to increased prosecution and marginalisation, and steps must be taken to mitigate this through appropriate policy frameworks and prosecutorial guidance.

3.8 Criminalisation of parents

It is important that any legislation passed to prevent the physical abuse 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'.⁴⁵ 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 to the child with inappropriate criminalisation, as opposed to the provision of support and education to change discipline practices. **Section 4** of this report outlines options for public education and support in relation to moving away from the use of physical punishment.

The criminalisation of mothers, including pregnant mothers is already an issue of concern. Children of prisoners⁴⁹ have been referred to as 'invisible' victims of punishment, as the challenges they experience are often not immediately recognised.^{50,51} Research into the effects of parental imprisonment has shown that the incarceration of one or more parent causes isolation and stigmatisation⁴⁶ and increases the risk of developing mental health problems, child antisocial behaviour⁴⁷ and poorer physical health outcomes.⁴⁸ Children of prisoners may experience a range of difficulties⁵² including behavioural problems, anxiety, anger, confusion and depression^{51, 53, 54} and are disproportionately represented amongst children accessing mental health services.⁵⁵ Having a parent in prison also exerts a significant impact on children's education; including poorer attainment and attendance and more behavioural issues compared to their peers.⁵⁷ Children of prisoners are additionally more likely to engage in anti-social or offending behaviour than other children.⁵¹

These are similar risk factors as those which occur when children encounter physical punishment, as outlined in **Section 2**, and for every individual child and family, the best interests balance will be different. It is imperative that in fixing one issue, another is not created. This report therefore recommends that careful prosecuting guidelines are produced and followed to ensure that legal professionals are supported to make decisions which support families to move away from the use of physical punishment without heavy-handed use of, in particular, custodial sentencing. Such measures should include consideration being given to an amendment to the Sentencing Act 2020 to allow for non-conviction outcomes similar to those in Victoria, Australia, 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.

In short, therefore, the legislative change is proposed to be a deterrent to prevent cases of physical punishment of children in England and Northern Ireland and it would only be in limited circumstances that a prosecution would be pursued and only in very extreme cases where the potential for imprisonment would occur. The focus should be on restorative approaches that both protect the child and maintain and support the parent child relationship.

Recommendation 4:

We recommend that the Education and Health Ministers for Northern Ireland lead the Northern Ireland Assembly in amending the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 to remove the reasonable punishment defence from Northern Irish Law.

Recommendation 5:

The Sentencing Council (England) and The Lord Chief Justice Sentencing Group (NI) should produce a sentencing guideline for those people charged with physical punishment of children making clear that custodial sentences should be avoided except in the most serious of cases.

3.9 Children and families from minority groups

Whilst it is not suggested that physical punishment proliferates amongst minority groups, nonetheless it is important to consider the potential negative impacts of legislative change to prohibit physical punishment of children which may disproportionately impact minority groups. In 2022, the National Police Chiefs' Council pointed to high levels of race disparities in policing, with Black people being nine times more likely to be stopped and searched by police, and five times more likely to experience the use of force by police. Additionally, just 1.3% of police officers are Black, compared to 3.5% of the wider population. As a result, Black people have significantly lower than average rates of confidence in the police force when compared with the average. As a result of the above over-policing, Black people are also over-represented as defendants in the criminal justice system.⁵⁸ Legislative change should not create a situation where minority groups are over-policed in terms of their parenting.

This is demonstrated elsewhere in the wider social care system, with children from mixed/multiple ethnic groups and Black/African/Caribbean/Black British ethnicities being overrepresented in the [Child Safeguarding Practice Review Panel's Annual Report](#), which details all rapid safeguarding reviews carried out in England in Wales in 2023. Additionally, children and young people identifying as being LGBTQ+ and those recorded as having a gender identity different to the sex registered at birth or being non-binary were more likely to be the subject of a rapid safeguarding review in 2023.

The disproportionate number of minority groups represented in both the criminal justice system and the child protection system as outlined above highlights the potential for further victimisation, should law change occur without effective measures to address this. **Section 4** makes recommendations as to how co-design with a range of communities must be adopted in the development of wider strategies beyond the legal change in order to ensure that social change away from the use of physical punishment does not further discriminate against or isolate minority groups.

3.10 In summary

This section has laid out the required changes to legislation in both England and Northern Ireland to secure equal legal protection from physical violence for children, as well as setting out considerations for the wider legal system in order to prevent unintended negative consequences. To truly secure a reduction in cases of physical punishment, these recommendations must be considered in tandem and appropriate guidance developed to accompany the legal change to recognise the importance of parent child relationships.

4. Where next: Going beyond the legal change to end physical punishment of children

4.1 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.

4.2 Enacting and implementing prohibition

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 raising methods.

4.3 The key steps in moving from prohibition to elimination of physical punishment.⁵⁹



4.4 Plan and Coordinate

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.

Recommendation 6:

The Department for Education (England) and the Department of Education (NI) should develop and adopt a cross-sector Equal Protection Plan to identify and brief all services working with children; to devise evaluation and monitoring processes; to set out communication strategies; and to agree a budget outside of the law change.

Case study:

Colombia's adoption of laws prohibiting all corporal punishment of children in 2021 included a requirement for the Colombian Government, through its relevant departments, to implement a National Pedagogical and Prevention Strategy within six months after the effective date of the law (article 5). The strategy was developed via widespread consultation with national and grassroots organisations, communities, parents and children. The strategy has 84 actions across four pillars: knowledge management; strengthening individual, family, and institutional capacities for promotion of a violence free life; supporting participation of children and young people in promotion of non-violence, and development of a social mobilisation strategy and information campaign that links all actors in society to generate social and cultural transformation.

You can find Colombia's strategy here:

[220421_Estrategia Castigo Fnsico_AC.indd \(funcionpublica.gov.co\)](#)

Case study:

Sweden was the first country to prohibit all corporal punishment in 1979. In the following years it carried out extensive communications campaign ensuring that all sections of society knew about the change in law, with many components continuing to this day. Information about the law was famously put on the side of milk cartons and leaflets were translated into eleven languages and delivered to every household. Information continues to be included in classes for all prospective parents, and the school curriculum includes a comprehension task using text explaining the law and its impacts. Public knowledge of the law is consistently above 90%.

Case study:

The Welsh Government adopted a very proactive communications campaign to accompany its introduction of equal protection in 2022. They were committed to two key principles: First, engagement would underpin every phase of communications. They wanted to take people with them and ensure stakeholders were briefed and had the information they needed prior to the law change. Second, it would be an inclusive campaign. They sought to engage with communities where there may be barriers to communication and who are often over-looked as a consequence.

They developed a multi-phased, integrated, engagement and communications strategy, based on these principles. The extensive campaign includes TV, radio, print, out-of-home and digital advertising, and a leaflet was delivered to every home in Wales outlining what individuals need to know about ending physical punishment of children in Wales.

Find out more about how Wales implemented equal protection here:

[Welsh prohibition comes into effect – and this is how they did it! | End Corporal Punishment of Children](#)

4.5 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.^{60, 61}

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 raising methods through the provision of freely available, widely accessible evidence-based positive parenting programmes, critically before becoming parents and when parenting young children, but also as children grow older. Additional measures, such as a free parent support helpline, and more intensive support services for parents and families facing difficulties, are important in supporting positive parenting.

Case study:

Scotland's prohibition of corporal punishment came into effect in 2020. ParentClub, a Scottish Government website for parents and carers provides information about the law, support in using positive, non-violent methods to raise children, handle challenging behaviour and cope with being a parent. Information about the law is included in the Ready Steady Baby publication for new parents.

Case study:

Costa Rica banned all violent punishment of children in 2008. The law included a duty to promote non-violent discipline. A strategic alliance between the Ministry of Health and CSOs was formed to deliver the “Somos Familia” (We are Family) programme, which provides support to families on discipline without violence so that children can develop their capacities in a healthy environment. In the programme, families receive an updated information guide, material and strategies, as well as daily activities to forge secure attachment and therefore, a strong emotional bond with their children.

4.6 Evaluate

Evidence shows that the enactment and implementation of laws banning all physical punishment can contribute to significant reductions in its use.⁶² Monitoring and evaluation play a key role in assessing the success and challenges of the implementation approach, 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 own 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.

Ideally, baseline data on attitudes, knowledge and behaviour should be gathered before the law is changed, and then in an ongoing process of collecting and analysing comparable information.⁶³ The implementation of programmes and interventions to promote childhoods without abuse 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. Results of analysis should be passed to those in a position to take action.

Case study:

UK Sustainable Development Goals (SDG) indicator 16.2.1 requires states to collect data on the proportion of children aged 1–17 years who experienced any physical punishment and/or psychological aggression by caregivers in the past month.

Read more about [putting prohibition of corporal punishment into practice](#).⁶⁴

Conclusion

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 is no more effective as a long-term strategy for improving behaviours than other approaches.

Internationally, 65 states have full prohibition of physical punishment of children (starting with Sweden in 1979 – over 40 years ago). 27 more states have committed to reforming their laws to achieve a complete legal ban

The time is right, and there is public support, to remove the “reasonable punishment” defence from law in England and Northern Ireland.

There is overwhelming academic evidence which clearly demonstrates that physical punishment of children is abusive and adversely affects children.

The adverse health impacts of physical punishment of children include poor mental health, and social, behavioural and emotional difficulties.

Children who are physically punished are at a heightened risk of serious physical assault.

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.

**#EndPhysicalPunishment #EqualProtection #EqualProtectionEngland
#EqualProtectionNorthernIreland**

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Offences Against the Person Act 1861

Criminal Justice Act 1988

Crime and Disorder Act 1998

Children Act 2004

Children Act 1989

Section 8 of the Sentencing Act 1991 (Victoria) (Australia)

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