

Quick read:

# RCPCH makes the case for equal protection from assault in England and Northern Ireland

## 1. The issue



**In England and Northern Ireland, children are the only group of people who are not fully protected from physical assault leading to significant negative impacts on children. This is because:**

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

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' (also referred to as 'reasonable chastisement') and therefore was not breaking the law prohibiting assault.

The RCPCH has carried out an evidence review of the impacts of physical punishment (corporal punishment) on children and young people, finding that the use of physical punishment has a negative impact on children's physical and mental health, as well as their social, emotional and behavioural outcomes. Steps must therefore be taken to reduce the use of physical punishment of children.

Our full report sets out the case for following the lead of Scotland and Wales and changing the law in England and Northern Ireland in order to serve as a catalyst for ending the use of physical punishment across the United Kingdom.

## 2. Key evidence



### Making the health case for ending physical punishment

- Children who experience physical punishment are 2.6<sup>i</sup> times more likely to experience mental health problems than children who do not experience physical punishment.
- Children who experience physical punishment are more 2.3<sup>ii</sup> times likely to go on to experience significant harm through more serious forms of physical abuse.
- There is evidence to suggest that children who are physically punished are more likely to believe that violence is accepted and encouraged by society, which may lead to them behaving in a more violent manner in adolescence and adulthood.<sup>iii</sup>

### Why legal change? Learnings from other jurisdictions

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

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

## Shaping Child Protection Practice: The law sets the tone

As paediatricians, RCPCH members have shared with us the challenges they face when supporting families to move away from physical punishment practices against the backdrop of legislation which does not make plain that physical abuse of any kind is not tolerated in law. Professor Andrew Rowland, RCPCH Officer for Child Protection, said:

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

**The law as it stands in England and Northern Ireland creates ‘grey areas’, meaning that, although we can say to families ‘the use of physical punishment is illegal’, a defence sometimes does exist in England and Northern Ireland (that has been removed in Scotland and Wales, where the situation is much clearer and without any grey areas).**

**Changing the law in England and Northern Ireland would mean we start conversations and interventions from a solid, clear starting block: there are never any circumstances where physical punishment of children is tolerated, acceptable, or lawful. This would provide us with better opportunities to support families without confusion, to prevent the serious and well evidenced risks associated with physical punishment and crucially, better identify cases of child abuse.”**

RCPCH members in Wales and Scotland tell us that they experience a different way of working, where physical punishment is simply not accepted by parents, families or children and as a result the number of instances of physical punishment seen in child protection services in these countries has been reported to be lower.

## 3. Why now?



**Ahead of a UK General Election and with Northern Ireland welcoming a new Education Minister, there are opportunities for all political parties to make meaningful commitments on this important children’s rights issue, and signal to young people and those who serve them that championing their wellbeing will be a priority for any incoming government.**

Public support continues to grow for a law change in this space, with NSPCC research finding that 67% of voting adults believe physical punishment of children is unacceptable and that 63% believe that a law change should be made to ensure this.<sup>v</sup>

The World Health Organisation’s (WHO) decision to host End Corporal Punishment under its organisational banner is further evidence that this is a pressing and pertinent child health issue and must be addressed as such.

## 4. The solution



**Amendments to the Children Act 2004 and the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 to remove the ‘reasonable punishment’ defence from all UK law are long overdue.**

**It is time to bring protection from physical assault for children in line with the protection afforded to adults. This is an aspirational law change, which seeks to align the law with the social attitudes and beliefs of the majority of adults in the UK who want to end the use of physical punishment against children.**

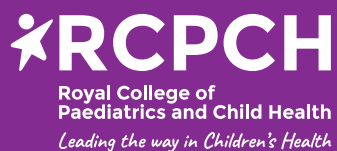
## 5. Our recommendations

Number	Recommendation	For 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 the 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)

- i 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
- ii 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
- iii Rowland AG, Gerry F, Stanton M. Physical Punishment of Children. *The International Journal of Children's Rights* 2017;25(1):165-9
- iv End Violence Against Children. Evidence from across countries of the positive impact of prohibiting corporal punishment. [Online]. 2023. Available from: <https://www.end-violence.org/articles/evidence-across-countries-positive-impact-prohibiting-corporal-punishment>
- v NSPCC. Majority of public want children in England to have same protection from assault as adults. [Online]. 2023. Available from: <https://www.nspcc.org.uk/about-us/news-opinion/2023/majority-of-public-want-children-in-england-to-have-same-protection-from-assault-as-adults/>

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Published in 2024 by  
Royal College of Paediatrics and Child Health  
5-11 Theobalds Road, London, WC1X 8SH

The Royal College of Paediatrics and Child Health (RCPCH) is a registered charity in England and Wales (1057744) and in Scotland (SC038299).