

The “reasonable punishment” of children defence in England should be consigned to history

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Declarations of interest

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Viewpoint

In January 1860 a Court heard “*complaints of chastisement*” inflicted on a child with significant injuries [1]. The physical punishment the child had been subjected to was reportedly designed to “*subdue his obstinacy by chastising him severely*”. The presiding Judge summarised the law in England:

“...a parent... may for the purpose of correcting what is evil in the child inflict moderate and reasonable corporal punishment... with this condition, that it is moderate and reasonable”.

Whilst moves to prevent violence against children have been progressive, 165 years later protection is not absolute and the law in England has moved at a more glacial pace. Despite 67 states and countries having prohibited all physical punishment of children (and 27 more having committed to do so) [2] children in England have been left behind. They are still not fully protected in law from physical assault [3]. Although more limited than it was over a century ago, the potential ‘reasonable punishment’ defence to assault or battery (also commonly known as ‘assault by beating’) of a child in England still exists. Such a defence is not available to wounding, actual bodily harm, grievous bodily harm or child cruelty (which are legally distinct from common assault or battery (assault by beating)). Children who have suffered from a battery or common assault remain potentially unprotected in law. This includes children who have been assaulted or subjected to battery more than once, where it is

determined that even the repeated assault and/or battery they have been subjected does not amount to cruelty to a child (Children and Young Persons Act 1933) or causing or allowing a child to suffer serious physical harm (Domestic Violence, Crime and Victims Act 2004).

Physical punishment is resolutely ineffective as a method of correcting children's behaviour in contrast to non-violent approaches which do not have detrimental effects on their development; and it is consistently associated with negative health and developmental consequences for children **[4]**. There is overwhelming evidence that physical punishment has adverse effects, including placing children at heightened risk of physical assault, poor mental health, and social, behavioural and emotional difficulties **[5-11]**.

Disciplining children through physical violence demonstrates that such violence is accepted and encouraged by society which has the real potential to teach them to behave this way as they grow older, merely adding to the adverse effects of physical punishment of children already prevalent in society.

In Scotland and Wales the defence of reasonable punishment has been abolished by reason of the Children (Equal Protection from Assault) (Scotland) Act 2019 and the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020.

Children in both Scotland and Wales now have the equal protection (from assault) that adults also enjoy. However, the law in England remains inconsistent with Article 19 of the United Nations Convention on the Rights of the Child (UNCRC) which requires countries to protect children from all physical violence.

Despite no meaningful legislative progress to absolutely protect children from physical assault in England over the last decade **[3]**, the NSPCC has explored public views relating to physical punishment. From 2023 to 2024 the percentage of people who thought smacking, hitting, slapping, or shaking a child is not acceptable rose (67% to 71%) **[12]**. Fifty-five percent of adults think physical punishment weakens the relationship between parent and child. Sixty percent think physical punishment has a negative impact on a child's mental health **[12]**. The weighted findings are representative of all adults in England **[13]**.

Preventing physical punishment is necessary for healthy child development, reducing the risk of further violence, and upholding children's rights to protection. Whilst physical punishment remains not unlawful (even if only in specific circumstances) it makes it difficult for professionals working with families to draw a line under physical punishment that has taken place and to work positively with unambiguous certainty that there are no circumstances in which physical punishment is lawful, regardless of whether a mark has been left on a child.

The introduction of laws to prohibit physical punishment of children is associated with a reduction in the use of physical punishment. In Sweden parental support for physical punishment dropped from 53% to 10%; in Finland there was a decline in adult acceptance of corporal punishment from 47% to 15%; in Germany physical punishment of children dramatically fell from 30% to only 3%; and in Romania there was a 22% decrease in caregivers' use of corporal punishment in the decade

following prohibition and children's reports of forms of severe corporal punishment halved **[14]**.

Laws prohibiting all physical punishment of children can have a powerful effect on the level of acceptance and use of violent punishment and other forms of maltreatment of children across whole populations **[14]**. The existence of laws prohibiting physical punishment and a lower number of child maltreatment deaths, are both associated with lower levels of acceptability of physical punishment **[15]**.

The time is surely now right, in 2025, to finally give children full and equal protection from assault. To that end there is a glimmer of hope for England's children. If accepted, amendments laid to the Children's Wellbeing and Schools Bill before the UK Parliament will finally abolish the reasonable punishment defence in England. They would set out clearly that there are no circumstances in which physical punishment is lawful and would introduce public awareness raising of the dangers of physical punishment, and of the safer and effective alternatives.

Prohibition does not immediately eliminate all physical punishment; rather the effect of a ban - and implementation measures - on public opinion and behaviour appears to strengthen over decades. The level of impact can depend on many factors, in particular the extent to which the law is integrated into wider child protection systems and supported with ongoing, widespread public education and parenting support measures **[14]**. Therefore, the amendments proposed to legislation in England should be considered long-term public health interventions and the sooner they are embedded the sooner the primary and secondary prevention effects will be able to

be demonstrated. The aim, of course, of the legislative change is to contribute to the eradication of the use of physical punishment of children; it is not the end point in and of itself.

The societal position where child abuse is forbidden yet (even limited) physical punishment is not necessarily unlawful is no longer tenable. Reducing the incidence of child abuse in society must begin with clear legislation which unambiguously states that physical punishment of children is always prohibited **[16]**.

Paediatricians and other professionals working with children and families should, whilst the window of legislative change remains ajar, do everything possible to lobby for Equal Protection (from assault) for children and the removal of the reasonable punishment defence from the law in England. This is nothing short of what children in England need, what children in England deserve, and, frankly, what children in England are entitled to.

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