

Children are unbeatable!

An alliance of organisations and individuals seeking legal reform to give children the same protection under the law on assault as adults and promoting positive, non-violent discipline

Briefing for MSPs - Debate in the Scottish Parliament on Thursday 13th September 2001

The Children are unbeatable! Alliance in Scotland includes:

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Do adults agree on corporal punishment?

Babies must never be smacked!!

Never hit a toddler with an implement like a brush or a shoe!

I have hit my children each day of their lives and it has done them no harm!

I think it is OK to take a belt to a 12 year old who has done

I think it is OK to hit a child from the day they are born - you need to teach them who is boss!

It is OK to hit a child if they have hit you!

Sometimes I just know I'm hitting the children because I'm

How does hitting a child teach them the difference between right and wrong?

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Hitting children is legal, so most parents don't think twice about it – why should they? But when we do stop to think about it, as the thousands of parents involved in **Children are unbeatable!** have done, then it doesn't make sense. There is nothing good or healthy or loving or safe about deliberately hurting children. It has nothing to do with effective discipline and is a lesson in bad behaviour. Most parents don't like smacking their children and want to find a positive alternative. Children have views on the subject too!

At the debate in the Scottish Parliament on Thursday 13th September 2001, the **Children are unbeatable!** Alliance urges you to:

- Endorse the Scottish Executive's proposals to ban the hitting of children under 3 and ban the use of implements, shaking and blows to the head for all children.
- Support the campaign for a total ban on the physical punishment of children.
- Encourage the Scottish Executive to widely disseminate information on positive, non-violent discipline.

Scottish Executive Leading the Way!

The Scottish Executive is the first legislature in the UK to announce proposals for legal reform which will ban smacking for all children under three and ban the use of implements, shaking and blows to the head for all children.

While **Children are unbeatable!** welcomes this first, brave step, we remain convinced that a total ban on the physical punishment of children is essential in a modern and humane society. A total ban would not cause parents to be prosecuted for trivial smacks, any more than trivial assaults on adults are prosecuted. The point of law reform is to change attitudes. All children need boundaries, a clear framework that helps them to understand what is acceptable and unacceptable behaviour, but this does not need to include physical punishment. Positive discipline aims to encourage and reward good behaviour rather than simply re-acting to bad behaviour.

Children are unbeatable! needs your support to change the law in Scotland and to help promote alternatives to hitting children – positive discipline, not violent punishment.

Background

In response to the 1998 judgement of the European Court of Human Rights concerning the repeated caning of a young boy by his stepfather (*A v UK*), the Government accepted that the law must be changed to give children better protection.

The Current Legal Position in Scotland

- The Children and Young Persons (Scotland) Act 1937 permits a person, having the lawful charge of a child, to administer punishment. In exercising this right adults must act in the 'the interests of the child' – Section 1 of the Children (Scotland) Act 1995. In practice parents are permitted to 'reasonably chastise' their children.
- Everyone is entitled to protection from inhuman and degrading punishment - Human Rights Act 1998.
- UN Convention on the Rights of the Child requires the UK to protect children from 'all forms of physical and mental violence' when in the care of parents or others.
- Physical punishment is not permitted in all schools, publicly funded pre school education, children's homes and foster care.

Scottish Executive Consultation

"The Physical Punishment of Children in Scotland: A Consultation" was issued by the Scottish Executive in 2000. An analysis of responses reveals that of the 220 responses received, 34% "are opposed to any physical punishment and call for a total ban"; 17% "support the right of parents to discipline their children as they see fit and are opposed to any change in the law"; and 43% "are prepared to consider the Executive's proposals (to limit rather than remove the defence of "reasonable chastisement"), albeit often reluctantly".

Current International Models

In 9 European countries, and Israel, children are protected from all corporal punishment - in Austria, Croatia, Cyprus, Denmark, Finland, Germany, Latvia, Norway and Sweden. Education campaigns have encouraged parents to use **positive** discipline. Furthermore, in 1996 Italy's Supreme Court prohibited all corporal punishment and in 2000 a clause was added to the Belgian constitution confirming that children have an absolute right to moral, physical, psychological and sexual integrity.

The Scottish Executive's Proposals

The **Children are unbeatable!** Alliance believes the Scottish Executive's proposals do not go far enough both in terms of international law and the practical implementation of the law in Scotland:

- do not meet the UN Committee on the Rights of the Child recommendations to the UK Government from 1995;
- still leave children without the same legal right to protection under the law on assault as adults;
- could actually make the law less clear on a daily basis for parents and children;
 - you think you witness a 2 year old being assaulted in the street by a carer but in fact she is a small child who is nearly four!
 - A parent decides to punish her 5 year old son and two year old daughter over the same incident. She hits the 5 year old and verbally reprimands the 2 years old. The son feels very bitter, humiliated and angry because he has been hit and in public. He is so upset he cannot even remember what he has done 'wrong'!

A full ban on physical punishment is the most appropriate legislative starting point!

- do not make any reference to the needs of parents to be supported in promoting positive discipline. There are many publications available which have been proven to help parents such as 'Getting Positive About Discipline - a guide for today's parents' and 'Why speak out about smacking?' both written by Penelope Leach for Barnardo's.

The Government's decision to change the law in Sweden was not initially popular. Sweden became the first country to ban smacking in 1979 and adults have dramatically changed their views on physical punishment. Now only 6 % of Swedes under the age of 35 support smacking – and prosecutions and removals of children from families have decreased steadily.

Why do we need full legal reform to end all corporal punishment?

The **Children are unbeatable!** Alliance recognises that parents who smack are usually acting with good intentions according to social expectations. The aim is not to denounce or prosecute parents, but simply to move society along - just as we have moved on from condoning the hitting of wives or servants.

The Government has cited public opinion as justification for its position. However a 1999 MORI poll found that the Alliance's position commanded strong support (73% of the general public, even higher for parents) - *if those polled could be sure that trivial smacks would not be prosecuted.*

The Alliance believes that on this issue the Government needs to lead public opinion rather than follow it. Evidence from the European countries that have banned smacking is that public opinion quickly catches up with legal reform.

A ban on all forms of corporal punishment is needed in order to:

- enhance child protection. First, by easing prosecution in cases in which it is plainly necessary in the interests of the child; second, by enabling child protection workers to give parents of children at risk of abuse a clear message that no level of corporal punishment is acceptable; third, by ensuring that children have a consistent level of protection which does not vary according to where they are placed or who is caring for them, and fourth, by preventing unintended physical or psychological injury;
- support parents, by providing a clear legal basis for the promotion of positive, non-violent forms of discipline by statutory and voluntary bodies working with families - discipline which reduces stress, improves family relationships and creates sociable, self-disciplined and well-motivated children;
- tackle violence and crime. Because corporal punishment is a significant factor in the development of violent behaviour in childhood and later life, clear reform would help measures to reduce violence and crime. It would also help to promote the concept of zero tolerance of violence between all family members and thus reduce all forms of domestic violence, and it would help reduce bullying between children;
- assert the equal human right of children to protection of their physical integrity. This is a protection which all adults take for granted. Challenging routine violence to children, the weakest members of society, is as important as challenging routine violence to women - a measure which has improved

women's status. The UN Convention on the Rights of the Child requires the UK to protect children from "all forms of physical or mental violence". The international monitoring body for the Convention, the Committee on the Rights of the Child, has emphasised that physical punishment within the family is not compatible with full implementation, and has formally recommended prohibition to the UK and to many other countries.

A ban on corporal punishment is entirely consistent with current Scottish Executive initiatives including the development of a Parenting Strategy; the Sure Start initiative; the recommendations from the Discipline Task Force and the HEBS publicity campaign for parents 'It's good to talk'.

Myths about the campaign to ban smacking.

This is a debate which raises a number of anxieties and questions. Some false allegations have also been made about the effects of banning smacking, and in particular about what has happened in Sweden in the twenty years following the outlawing of smacking. Save the Children has published a detailed review of the available Swedish data 'A Generation Without Smacking'. Some of these findings are given below, in which we seek to clear up misunderstandings.

Outlawing smacking:

- **would not** lead to the prosecution of parents for trivial smacks - any more than adults are prosecuted for trivial assaults on other adults. On the contrary, clear reform coupled with education is likely to reduce the need for prosecutions through changes in parental attitudes and practice. This has happened in Sweden, where there has been no increase in prosecutions for parental assaults of children since the ban (the strongest decline being shown in relation to parents in their twenties - who were themselves brought up without smacking).
- **would not** lead to more compulsory social work intervention in families or removals of children into care. Again the Swedish experience shows a marked decline in out-of-family placements of children and of compulsory forms of intervention.
- **would not** prevent parents from using physical measures to protect or restrain their children, nor absolve them of their duty to teach children good manners, the difference between right and wrong, and how to behave thoughtfully and respectfully towards others. Indeed, one can anticipate greater use of positive, consistent and effective forms of discipline as a consequence of such a ban. (The recent National Family and Parenting Institute poll found only one in five parents believing smacking was an effective way of teaching right from wrong).
- **would not** be a "pointless" or "unenforceable" measure. Although there is no increase in official state intervention in families, there have been significant changes in attitudes and practice in countries which have adopted a ban. A majority supported smacking in Sweden before the ban, now only 6% of under-35 year-olds support even the mildest form of physical punishment. On the other hand, there is no evidence that physical punishment will disappear of its own accord. The prevalence of corporal punishment in the family, including "severe" corporal punishment, remains very high in the UK. Recent Government-commissioned research involved interviews with over 400 families. It found that 97% of the four year olds were physically punished, almost half more than once a week. Three-quarters of the one year-old babies were smacked in their first year. Almost a quarter of seven year olds had experienced "severe" punishment by mothers (defined as involving "intention or potential to cause injury or psychological damage, use of implements, repeated actions or over a long period of time").

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