Changing Perceptions: Achieving Equal Protection for Children

Wednesday 22 March 2017
Achieving Equal Protection for Children

Housekeeping

Jacqueline Melville
Policy and Research Officer
Achieving Equal Protection for Children

Welcome and outline of afternoon

#EqualProtection

Mairead McCafferty
Chief Executive
Achieving Equal Protection for Children

Changing views: Northern Ireland and Equal Protection

Koulla Yiasouma
Commissioner
Achieving Equal Protection for Children
No Exceptions

‘No exceptions ... all forms of violence against children, however light, are unacceptable ... Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence ... definitions must in no way erode the child’s absolute right to human dignity and psychological integrity by describing some forms of violence as legally and/or socially acceptable.’

UN Committee on the Rights of the Child (2011) General Comment 13, para 17
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Concluding Observations

‘Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as “reasonable chastisement”;

Strengthen its efforts to promote positive and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity, with a view to eliminating the general acceptance of corporal punishment in child-rearing.’

Extract from UN Committee on the Rights of the Child (2016) Concluding Observations, para 41
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Knowledge of the law

Do you know that in Northern Ireland the law allows a parent to physically punish their child – physical punishment can include smacking or hitting?

Only 1 in 3 adults (33%) were aware that the law currently allows a parent to physically punish a child.
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Acceptable Discipline

Which of the following forms of discipline or punishment do you feel are acceptable?

- Withdrawal of treats, pocket money, etc: 70%
- Grounding: 60%
- Negotiation or discussion: 50%
- Time out: 40%
- Shouting: 30%
- Physical punishment such as hitting or smacking: 20%
- Ignoring or walking away: 10%
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Acceptability of Physical Punishment

Effective Parenting

Do you think positive parenting is more or less effective than physical punishment?

- Positive parenting is much more effective
- Physical punishment is much more effective
- Positive parenting is a little more effective
- Physical punishment is a little more effective
- Both equally effective

All respondents
Parents
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Support for Change

In NI if you smacked or hit another adult it is prohibited by law. Would you support or oppose a change in the law to give children the same protection that adults have?

- Definitely support: 37%
- Definitely oppose: 9%
- Tend to support: 26%
- Tend to oppose: 20%
- Don't know: 8%
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Age and change

In NI if you smacked or hit another adult it is prohibited by law. Would you support or oppose a change in the law to give children the same protection that adults have?

<table>
<thead>
<tr>
<th>Age</th>
<th>Support for change</th>
</tr>
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<tbody>
<tr>
<td>18-24</td>
<td>77%</td>
</tr>
<tr>
<td>25-34</td>
<td>65%</td>
</tr>
<tr>
<td>34-49</td>
<td>63%</td>
</tr>
<tr>
<td>50-64</td>
<td>60%</td>
</tr>
<tr>
<td>65+</td>
<td>55%</td>
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</tbody>
</table>
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Positive Parenting

Have you previously been given any information about positive parenting or alternatives to physical punishment?

Only one in five parents (20%) said they had been given information about positive parenting or alternatives to physical punishment.
Equally Protected?
The Story in Scotland So Far

Pauline McIntyre
Parliamentary & Policy Officer
Children and Young People’s Commissioner Scotland
The Story So Far

- Consortium of children’s organisations working in partnership to change the law on physical punishment in Scotland

- Jointly commissioned research

- Working on a Members’ Bill
Equal Protection

• Children currently have less protection from assault under Scots Law than any other group.

• Children deserve equal protection

• Amending the law will help achieve that aim
‘A’ vs UK Government

- 1994 Court case in England
- Stepfather repeatedly beat his 9 year old stepson with a cane
- Stepfather acquitted – found to be ‘reasonable punishment’
- ‘A’ appealed to European Court of Human Rights and was successful.
- Legal change followed to comply with 1998 judgment.
Criminal Justice (Scotland) Act 2003

As the Bill was progressing through the Scottish Parliament in 2002, a number of key issues were raised:

1. The perceived lack of evidence that a ‘light’ smack could cause lasting harm to a child
2. Debate around what constituted ‘severe’ physical punishment.
3. The perceived tension in legislating when a ‘parental right’ existed

As a result: decision made to prohibit only certain types of physical punishment.
‘You suggest that if a child sticks his finger in an electrical socket, he should be removed and given time out. However, many homes may not contain a suitable facility for time out – people may be living in one room. No matter how good parents are, they cannot keep an eye on their child all the time. If a child is sufficiently determined...and sticks its finger back into the electric socket....It must be made apparent to the child that its actions have consequences. In situations such as the one that we are discussing, is a light smack not the answer?’ (MSP)

‘Although we all may desire to legislate to ensure that no child is damaged by hitting, the practicalities of the law might mean that some innocent and good parents were prosecuted, as they would not be able to hit their child in any circumstances. Do you worry about what might happen to good parents who are caught out by the law?’ (MSP)
‘What evidence is there that simply hitting – I am talking about a light slap or smack as opposed to anything damaging or degrading – damages a child in later life?’ (MSP)

‘The real bone of contention...is whether there is any age – whether two, three or four – at which it would be damaging to allow parents to smack the child. Parents would not have the defence of physical chastisement. They would simply not be able to smack at all.’ (MSP)
The Language of Physical Punishment

- ‘light tap’
- ‘light smack’
- ‘trivial smack’
- ‘a loving smack’
- The language we use to describe physical punishment is key to how we view it within society.
Legislation in Scotland

Section 51 of the Criminal Justice (Scotland) Act 2003

- Defence of ‘justifiable assault’

- Can be used where ‘a person claims that something done to a child was a physical punishment in exercise of a parental right or of a right derived from having charge or care of the child’.

- Excludes blows to the head, shaking, or the use of an implement.
The Smacking Debate in Northern Ireland: Messages from Research

- Review on physical punishment in Northern Ireland published in 2008
- Commissioned by NICCY, NSPCC (NI) and Barnardo’s (NI)
- 138 journal articles – published between 2000 and 2005
- Key recommendation: The UK Government and devolved assemblies should prohibit all physical punishment of children
Equally Protected?

• We wanted to update the findings of the NI Review – 10 years on

• Research commissioned jointly by the Children and Young People’s Commissioner Scotland, Barnardo’s Scotland, Children 1st and NSPCC Scotland.

• Research carried out by 3 researchers from the University College London – Anja Heilmann, Yvonne Kelly and Richard G Watt.

• Steering group formed to agree the focus of the research
Research Questions

1) Prevalence of/attitudes towards different types of parental punishment in the UK and other OECD countries?
   • trends over time?
   • what evidence is there of changes in prevalence/attitudes in countries that have made physical punishment illegal?

2) What are the effects of physical punishment on child health and development, and later-life health and well-being?

3) Is parental use of physical punishment related to an increased risk of child maltreatment?
Definition of Physical Punishment

- The review used the definition of physical punishment contained in the UN Convention on the Rights of the Child:

  "'Corporal' or 'physical' punishment is any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light."

- Used studies conducted in OECD countries – published in English between January 2005 and June 2015

- Used only longitudinal studies – to avoid reverse causation (i.e. so we could be certain that behaviour arose as a result of physical punishment and wasn’t due to pre-existing factors)
Prevalence - Scotland

- Smacking prevalence (MCS 2006, child age 5): 58%
- "My parents smack me when I have done something wrong" (GUS 2012/13, child age 7): 56%
- “It may not be a good thing to smack, but sometimes it is the only thing that will work” (GUS 2006, child age 4): 42%
- Smacking is ‘not very’ or ‘not at all’ useful (GUS 2006, child age 4): 84%

MCS = Millennium Cohort Study     GUS = Growing Up in Scotland
Prevalence – UK as a whole

Physical punishment reported by young adults aged 18-24 (Radford et al. 2011)

<table>
<thead>
<tr>
<th>Punishment</th>
<th>Prevalence (%)</th>
<th>1998</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smacked on bottom with bare hand</td>
<td>53.1</td>
<td>41</td>
<td>2.8</td>
</tr>
<tr>
<td>Regular physical punishment</td>
<td>10</td>
<td>10</td>
<td>2.8</td>
</tr>
</tbody>
</table>
Countries Where Physical Punishment is Prohibited

Systematic review of laws, attitudes and behaviours in countries with a legal ban (Zolotor and Puzia 2010)

24 countries included (19 in Europe)

Key findings
Legal bans of physical punishment are associated with declines in prevalence as well as public acceptance.

Decline in severe physical abuse in countries where physical punishment is prohibited.
Wider Prevalence – Key Findings

• In many countries, the prevalence of physical punishment is declining and becoming less acceptable
• A high proportion of parents doubts that physical punishment is useful
• Declines in physical punishment are accelerated in countries that have prohibited its use
• In many countries, legal bans have been implemented without a majority of public support
• The passage of legislation in combination with public awareness campaigns leads to a change in public attitudes
What Are the Effects of Physical Punishment on Child Health and Development?

- Longitudinal studies only
- 74 original research articles
- 2 reviews (Gershoff and Bitensky 2007; Ferguson 2013)
By far the most studied outcome (55 studies, 2 reviews).

Strong and consistent evidence from good-quality research that physical punishment is associated with increased childhood aggression and antisocial behaviour.

42 out of 55 studies found that physical punishment predicted increases in aggression and antisocial behaviour over time. (38 controlled for initial levels of the behaviour under study).

Supported by findings of the 2 reviews.
Childhood Aggression & Anti-social Behaviour

Evidence of reciprocal effects

11 out of 14 studies found evidence of reciprocal effects.

Physical punishment exacerbates existing problem behaviour – vicious cycle of cascading conflict.
Childhood Emotional & Mental Health

Includes anxiety, depressive symptoms

10 out of 19 studies found evidence for detrimental effects

Detrimental effects supported by the 2 reviews

5 studies: mixed results; 4 studies: no associations

Totality of the evidence suggests that there is a link between physical punishment and child mental health problems
Effects on Later Life – Health & Well-being

- Adult aggression and antisocial behaviour, including aggression and sexual violence within intimate partner relationships
- Adult mental illness
- Adult substance misuse (alcohol, drugs)
- Some (but less consistent) evidence of links with depressive symptoms and reduced self-esteem in later life.
Link Between Physical Punishment and Child Maltreatment

Six individual studies, one review

Outcomes studied:

- Parental use of severe physical violence (4 studies)
- Injury requiring medical attention (1 study)
- Involvement with Child Protective Services (1 study)

All 6 individual studies and the review reported a link between physical punishment and child maltreatment.
Conclusions

Physical Punishment

• is not effective in achieving parenting goals.
• is detrimental to children’s health and development.
• carries a serious risk of escalation into injurious abuse and maltreatment.
• declines faster in countries where it is prohibited.
Recommendations

1. All physical punishment of children should be prohibited by law
2. Legislation should be accompanied by large-scale information and awareness campaigns.
3. Support parents to use positive parenting strategies.
4. Organisations and professionals concerned about child welfare need to work together to develop advocacy and lobbying strategies which call on policymakers for an urgent change in legislation to end all physical punishment of children.
Learning from Equally Protected?

- Partnership is key
- Benefits of research in providing a clear starting point for debate
- Wide range of voices required – not just the ‘usual suspects’
- Benefits of framing issue from a public health perspective
Scottish Context

• Thinking has shifted considerably in last 15 years

• Children’s rights very firmly on the political agenda

• Range of legislation that has sought to put children needs front and centre

• Aspiration of ‘Best Place to Grow Up’
Key Barriers to Government Support

- No firm commitment from Government to prohibit physical punishment
- Perception that legislating would interfere in family life
- Perceived risk of criminalising parents
- Belief that attitudes and behaviours will change organically over time
Parental Rights

- Parental rights and responsibilities in Scotland are set out in the Children (Scotland) Act 1995

  (a) to safeguard and promote the child’s health, development and welfare;
  (b) to provide, in a manner appropriate to the stage of development of the child—
    (i) direction;
    (ii) guidance, to the child;
Criminalisation

• ‘We don’t want to criminalise parents’

• ‘Child protection systems will be overwhelmed’

• ‘It’s impossible to police people in their own homes’

• ‘Public attitudes towards physical punishment are changing regardless’
Equal Protection – Members’ Bill

• Joint approach made to a Green Party Member of the Scottish Parliament (MSP), John Finnie, who agreed to put forward a Members’ Bill

• Bill would remove ‘justifiable assault’ defence and provide children with equal protection from assault

• Bill would not create a new offence
Members’ Bill - Process

- 12 week consultation - report
- Final proposals lodged – cross-party support required
- Draft Bill produced
The Consultation Paper

- Evidence-based & non-judgmental
- Language carefully chosen – e.g. physical punishment, not ‘smacking’
- Providing clear examples of how other legislation has led to cultural shift
- Highlighting links with Scottish Government policies and strategies
Securing Support for Change

• Seminar in Scottish Parliament to highlight Equally Protected findings

• Fringe events at Green Party and Labour Party conferences in Scotland

• Journal articles/media coverage
What Next?

- Launch of consultation

- Work to identify key partners who can provide supportive comments – including Members of the Scottish Parliament, parenting groups, church groups, Police, prosecutors and health.

- Creation of a media strategy

- Tapping into the expertise of those who have gone before – the Republic of Ireland
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Young peoples’ freephone: 0800 019 1179
Email: info@cypcs.org.uk
Text: 07702 335 720

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Ireland’s Journey to Achieve Equal Protection

Jillian van Turnhout
Former Senator Seanad Eireann
Ireland’s journey to achieve Equal Protection

Jillian van Turnhout
@JillianvT
Email: jillianvanturnhout@gmail.com
We are independent rights holders

There must never be a defence for violence against children.

I am honoured to have championed and secured the effective ban on the physical punishment of children in Ireland.

Senator Jillian van Turnhout
Ban on Corporal Punishment

- **52** states have achieved prohibition of corporal punishment in all settings, including the home

- **54** states are committed to achieving a complete legal ban

Global Initiative to End All Corporal Punishment of Children, March 2017
Global progress towards prohibition of all corporal punishment of children

- **Green**: Prohibited in all settings.
- **Blue**: Government committed to full prohibition.
- **Yellow**: Prohibited in some settings.

Global Initiative to End All Corporal Punishment of Children
“The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”

General Comment no 8
UN Committee on the Rights of the Child
Most corporal punishment involves hitting (smacking, slapping, spanking) children, with the hand or with an implement. It can also involve kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion.
The common law defence of reasonable chastisement is abolished.

Ireland Abolition of defence of reasonable chastisement
“The attitude you have as a parent is what your kids will learn from more than what you tell them. They don't remember what you try to teach them. They remember what you are.”

Jim Henson
Learning by example
SPOT-A-LOTT

MAGNETIC
PLAYING PIECES

A MOToring OBSERVATION GAME

© Lott's toys 1969
Your hands should nurture not punish. Raise your hand against smacking!
• can cause serious harm to children;
• teaches children that violence is an acceptable way of solving conflicts;
• is ineffective as a means of discipline;
• makes it more difficult to protect children from severe abuse if some forms of violence are legitimate.
Amendment: Non-Fatal Offences Against the Person Act

“Ireland

Abolition of defence of reasonable chastisement

Amendment: Non-Fatal Offences Against the Person Act

“The common law defence of reasonable chastisement is abolished.”
Professor Geoffrey Shannon
Government Special Rapporteur on Child Protection
Lithuania

14 February 2017

*Children have the right to be protected from all forms of violence, including corporal punishment, by their parents, other legal representatives, persons living with them or other persons.*
THANK
You
Very Much

Jillian van Turnhout  jillianvanturnhout@gmail.com
Achieving Equal Protection for Children

Roundtable Discussion and Feedback (Chatham House Rules)

Mairead McCafferty
Chief Executive
Achieving Equal Protection for Children

Panel Question and Answer

Mairead McCafferty
Chief Executive
Achieving Equal Protection for Children

Equal Protection: steps to supporting children and families

Koulla Yiasouma
Commissioner
Achieving Equal Protection for Children

“The distinct nature of children, their initial dependent and developmental state, their unique human potential as well as their vulnerability, all demand the need for more, rather than less, legal and other protection from all forms of violence.”

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Thank you for attending

You can out more about our work at www.niccy.org and follow us on Twitter @nichildcom.