Equal Protection for Children – Improving Outcomes

24th June 2020

*“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.”[[1]](#footnote-1)*

**Addressing harm and adversity and improving outcomes**

Northern Ireland is taking significant steps to recognise and address the adverse impact of harmful childhood experiences on children not only in their early years and adolescence but also as they affect children into adulthood and throughout their lives. Established research has demonstrated that exposure to adversities in childhood can have a cumulative effect throughout a child’s life and lead to significantly poorer outcomes expressed across a range of areas including poor health and mortality rates; repeated exposure to harm and abuse; poor mental health and addictions and increased contact with criminal justice agencies.[[2]](#footnote-2) Work in this area and on measures to reduce exposure to adverse experiences and support individuals in recovery from these has increasingly informed a public health approach being taken by governments to reduce harm and improve population outcomes across a number of jurisdictions. In Northern Ireland, NICCY commissioned one of the first pieces of research to use the framework of Adverse Childhood Experiences (ACEs) in aiming to identify learning to improve responses and interventions for children and families, in this instance in reviewing a number of cases where children had sadly died in adolescence following suicide.[[3]](#footnote-3)

Commitment to this field of work in Northern Ireland is now evident, for instance, in the work of the Safeguarding Board for Northern Ireland and other statutory agencies on Adverse Childhood Experiences[[4]](#footnote-4) and the Early Intervention Transformation Project on trauma informed practice across Justice, Education, Health, Social Care and the Community and Voluntary sector. NICCY notes that this commitment directly supports a number of outcomes under the draft Programme for Government[[5]](#footnote-5), particularly that we: give our children and young people the best start in life; care for others and help those in need; and live long, healthy and active lives. This complements the high levels outcomes set out in the 2019-2029 Children and Young People’s Strategy[[6]](#footnote-6) and the Children’s Services Co-operation Act (Northern Ireland) 2015.

The Commissioner draws attention to the conceptualisation of exposure to physical harm which is reflected in much work concerning ACEs and notes that this description is inclusive of behaviour that could be described as physical punishment.[[7]](#footnote-7)

NICCY is clear that the Northern Ireland Executive must demonstrate its commitment to a trauma informed society by ensuring Equal Protection for children from physical punishment.

Children’s Rights

* The United Nations Committee on the Rights of the Child has repeatedly recommended that the UK and devolved governments prohibit, as a matter of priority, all physical punishment in the family, including through the repeal of legal defences such as “reasonable chastisement”, and strengthens efforts to promote positive and non-violent forms of discipline.[[8]](#footnote-8)
* The Committee defines physical or corporal punishment as “… any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (‘smacking’, ‘slapping’, ‘spanking’) children, with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon etc. But it can also involve, for example, 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 (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). … corporal punishment is invariably degrading.”[[9]](#footnote-9)
* 60 states worldwide including Ireland, Scotland and Wales have now reformed the law to ensure children have Equal Protection from all forms of assault.[[10]](#footnote-10)

**What we know about the prevalence of physical punishment in Northern Ireland**[[11]](#footnote-11)

* Just under half of parents stated that they used physical punishment.
* One third of these reported that they had used physical punishment with 0-2 year olds.
* 84% of parents said they were frustrated when they administered physical punishment and one in 10 said they were frequently or always out of control when doing so.

**What we know about the impact of physical punishment[[12]](#footnote-12)**

* There is strong and consistent evidence that physical punishment is associated with **increased childhood aggression and antisocial behaviour.** Physical punishment is not effective in achieving parenting goals and its use can exacerbate existing problem behaviour.
* There is good evidence that it is related to **depressive symptoms and anxiety** amongst children.
* Most studies that considered the ‘loving smack’ hypotheses found that the harmful effects of physical punishment were not reduced by high levels of parental warmth. [[13]](#footnote-13)
* There is consistent evidence of an association between **physical punishment and child maltreatment,** including a risk of escalation into physical abuse. Northern Ireland has the highest per population figure of children on the Child Protection Register across the UK andphysical abuse, either as a single factor or in combination with other forms of abuse, features as a reason for a child being placed on the Register in over half of all cases.[[14]](#footnote-14)
* There is good evidence that legal reform accelerates decline in the use of physical punishment with suggestion there is also a **decline in severe physical abuse.[[15]](#footnote-15)**

**What we know about attitudes towards physical punishment in Northern Ireland[[16]](#footnote-16)**

* 70% of adults thought that positive parenting was much more effective or a little more effective than physical punishment. This rose to 76% amongst parents.
* Just under one in four adults (24%) and only 18% of parents stated that physical punishment was acceptable. This demonstrates a **large decrease in societal acceptability of physical punishment** reported in previous research.
* **63% of adults said they would definitely support or would tend to support changing the law** to give children the same protection from hitting and smacking that adults have. This indicates an increase in support from similar questions in earlier studies.
* Only one in five parents (20%) said they had been given information about positive parenting or alternatives to physical punishment. This is a decrease from 2008 when 1 in 3 parents reported they had been given information.

**Legal reform and transition**

A wide range of countries have now progressed to introduce legal reform with some putting in place measures to manage the transition process or monitor the impact of implementation. For example, in jurisdictions close to home, both Scotland and Wales have placed an awareness raising duty on government to highlight the change in law in their reform legislation and Wales has also incorporated an obligation to report on the effect of legal reform at a three and then five year point.[[17]](#footnote-17) A number of states have also sought to ensure parents and carers have improved access to parenting information and support, including in relation to discipline and alternatives to physical punishment.

In regard to reporting on increased intervention in families or prosecution of parents under reform, data from Sweden which introduced reform in 1979 indicates no significant increase in prosecutions[[18]](#footnote-18) while New Zealand which introduced legislation in 2007 notes some increases in reporting to police but no substantive increase in prosecutions. In New Zealand, police provided monitoring figures across the first years of implementation and a Government report, which drew on social care as well as police data, found no evidence of disproportionate State interference in family life with the majority of reports to police resulting in no further action, warnings or referral to social care or support services.[[19]](#footnote-19) In Sweden there is also evidence of increased support or early interventions for families and while there has been no reporting on the 2015 legal reform in Ireland to date, Jillian van Turnhout, who introduced the legislative amendment has noted that reform has given greater clarity to professionals working to support children and families.[[20]](#footnote-20)

While NICCY acknowledges concerns regarding the possibility of an increase in prosecutions of parents following legal reform we note that, where evidence is available, no significant increase has been documented. We also highlight that legal reform will not introduce a new criminal offence, rather it will remove a defence, and will not alter the existing procedures and safeguards within criminal justice processes, such as, the requirement for evidential and public interest tests to be met in considering prosecutorial decisions. Indeed, research regarding physical punishment and legal reform often highlights the significance of the ‘educative’ aspects of reform, which can be an important factor in cultural and attitudinal change, as well as the role that can be played by awareness raising, good guidance and sound practice to ensure that statutory agencies can signpost parents to support services where this is the most appropriate outcome.[[21]](#footnote-21)

**NICCY Calls**

In order to fulfil the commitment made to address adverse childhood experiences and improve outcomes for children and young people to give them the best start in life and to meet its obligations under the United Nations Convention on the Rights of the Child, the Northern Ireland Government must ensure:

* Reform of the law to ensure that children have Equal Protection under the law from all forms of assault, including physicalpunishment; and
* Renewedgovernment commitment to supporting parents and families, including through dedicated positive parenting information and support.

It remains unacceptable that children are not protected from all forms of assault in their homes in the same way that their parents, grandparents and adult siblings are. NICCY looks forward to engaging with the Departments of Justice and Health in the drafting of policy and legislation that ensure children and families across Northern Ireland are properly protected and supported.

1. UN Committee on the Rights of the Child (2006) General Comment 8: The rights of the child to protection from corporal punishment and other cruel or degrading forms of punishment, para 21. [↑](#footnote-ref-1)
2. See for example Felitti, V et al (1998) ‘Relationship of childhood abuse and household dysfunction to many of the leading causes of deaths in adults: the adverse childhood experiences (ACE) study’, American Journal of Preventative Medicine, 14 (4), 245-258. [↑](#footnote-ref-2)
3. Devaney J. et al (2012) Still Vulnerable: The impact of early childhood experiences on adolescent suicide and accidental death; Belfast: NICCY.

<https://www.niccy.org/media/1347/adolescent-suicide-report-adult-final-nov-12.pdf> [↑](#footnote-ref-3)
4. See for example:

<https://www.safeguardingni.oraces/what-are-aces>

<https://www.safeguardingni.org/aces> [↑](#footnote-ref-4)
5. TEO (2018) Draft Programme for Government Framework 2016-2021:

<https://www.executiveoffice-ni.gov.uk/topics/making-government-work/programme-governmentoutcomes-delivery-plan> [↑](#footnote-ref-5)
6. DE (2019) Children and Young People’s Strategy 2019-2029:

<https://www.education-ni.gov.uk/sites/default/files/publications/education/2019-2029%20CYP%20Strategy.pdf> [↑](#footnote-ref-6)
7. See for example Appendix 1 in Devaney J. et al (2012) Still Vulnerable: The impact of early childhood experiences on adolescent suicide and accidental death; Belfast: NICCY.

<https://www.niccy.org/media/1347/adolescent-suicide-report-adult-final-nov-12.pdf> [↑](#footnote-ref-7)
8. CRC (2016) Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, para 41. [↑](#footnote-ref-8)
9. UN Committee on the Rights of the Child (2006) General Comment 8: The rights of the child to protection from corporal punishment and other cruel or degrading forms of punishment, para 11. [↑](#footnote-ref-9)
10. For regularly updated information see: <https://endcorporalpunishment.org/> [↑](#footnote-ref-10)
11. Bunting L., Webb M.A. and Healy J. (2008) The ‘Smacking Debate’ in Northern Ireland – Messages from Research, Belfast: NICCY. [↑](#footnote-ref-11)
12. Heilmann A., Kelly Y. and Watt R. (2015) Equally Protected? A Review of the Evidence on the Physical Punishment of Children, Children and Young People’s Commissioner Scotland, Children 1st, Barnardo’s and NSPCC. Available at: <https://www.nspcc.org.uk/services-and-resources/research-and-resources/2015/equally-protected/> [↑](#footnote-ref-12)
13. See also research which outlines that smacking and physical abuse are associated with the same negative child outcomes just to a lesser degree: Gershoff E.T. and Grogan-Kaylor A. (2016) Spanking and child outcomes: Old controversies and new meta-analyses. *Journal of Family Psychology* June 30(4):453-469. [↑](#footnote-ref-13)
14. 2019 (DoH) Children’s Social Care Statistics for Northern Ireland 2018/19:

<https://www.health-ni.gov.uk/sites/default/files/publications/health/child-social-care-18-19.pdf> [↑](#footnote-ref-14)
15. See also research which shows an association between legal prohibition of physical punishment and lower prevalence of adolescence violence: Elgar F.J. et al (2018) Corporal punishment bans & physical fighting in adolescents: an ecological study of 88 countries. *BMJ Open* September 8(9). [↑](#footnote-ref-15)
16. NICCY (2017) Changing Perceptions: Equal Protection for Children, NICCY’s work and survey results on attitudes to physical punishment. Available at: [www.niccy.org/equalprotection](http://www.niccy.org/equalprotection) [↑](#footnote-ref-16)
17. See Section 2 of the Children (Equal Protection from Assault) (Scotland) Act 2019 and Sections 2 and 3 of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020. [↑](#footnote-ref-17)
18. Prof Keating H. (2018) Legislating to Prohibit Parental Physical Punishment of Children; Public Policy Institute for Wales:

 <https://www.wcpp.org.uk/wp-content/uploads/2018/11/181101_PPIW-REPORT-Legislating-to-Prohibit-Parental-Punishment.pdf> [↑](#footnote-ref-18)
19. See: New Zealand Police (2013) Eleventh review of police activity since enactment of the Crimes (Substituted Section 59) Amendment Act 2007

<https://www.police.govt.nz/sites/default/files/resources/other-reports/11th-review-section-59.pdf>

Hughes, P. (2009) Report to the Minister for Social Development and Employment, Wellington: Ministry for Social Development

<https://img.scoop.co.nz/media/pdfs/0911/20091110_Chief_Executives_Monitoring_Report_on_s59.pdf> [↑](#footnote-ref-19)
20. Prof Keating H. (2018) Legislating to Prohibit Parental Physical Punishment of Children; Public Policy Institute for Wales:

 <https://www.wcpp.org.uk/wp-content/uploads/2018/11/181101_PPIW-REPORT-Legislating-to-Prohibit-Parental-Punishment.pdf> [↑](#footnote-ref-20)
21. ibid [↑](#footnote-ref-21)