

CHILDREN (EQUAL PROTECTION FROM ASSAULT) (SCOTLAND)  
BILL 2018 – EHRIC COMMITTEE RESPONSE

**EQUALITIES AND HUMAN RIGHTS COMMITTEE**

**SUBMISSION FROM SCOTTISH CHILDREN’S REPORTER ADMINISTRATION**

**Introduction**

SCRA’s position in relation to the Children (Equal Protection from Assault) Bill has not changed since we responded to the consultation in relation to the Bill last summer.

The SCRA Board has taken a clear view that the Bill should be fully supported, in line with SCRA’s responsibilities:

- as a public body in terms of the UN Convention on the Rights of the Child under s2 of the Children and Young People (Scotland) Act 2014
- as a corporate parent under Part 9 of the 2014 Act
- as an agency responsible for the welfare and protection of vulnerable children

SCRA want to consistently apply a child rights based approach to policy and practice in the children’s hearings system, and there should be no difference between children and adults in the protection of the law in relation to physical assault.

In November 2015 more than 50 countries had banned the physical punishment of children. In addition there was substantial evidence to support the following conclusions:

- Physical punishment is associated with increased childhood aggression and antisocial behaviour.
- Physical punishment is likely to make existing problems worse.
- There is a link between childhood physical punishment and adult aggression or antisocial behaviour.
- Physical punishment also affects children’s emotional and mental health and is linked to depressive symptoms and anxiety among children.





- The harmful effects of physical punishment were the same even when levels of maternal warmth were high.
- There is a link between physical punishment and child maltreatment - the notion that physical punishment and physical abuse are part of a continuum of violence, differing only by severity or degree.

The current law expressly prohibits punishment of children in the following circumstances:

- Hitting on the head
- Shaking
- Punishing with a belt, cane or other implement

However, there is a legal grey area below that threshold where it has been left to the courts to decide what is and is not reasonable chastisement taking account of the factors set out in legislation. Changing the law to make clear that physical punishment is not an acceptable or appropriate way to discipline a child bring clarity to this area for parents, children and professionals. It would also assist in meeting Scotland's obligations under the UN Convention on the Rights of the Child, which requires that: "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth".

- **Do you support the Bill's aim to end the physical punishment of children by parents or carers? It will do this by abolishing the defence of reasonable chastisement. Please provide an explanation for your response. What groups would be impacted by the change (for example, parents, children, public services, the legal profession, etc)?**

Yes. SCRA fully supports the aim of the Bill to end the punishment of children by physical assault. SCRA is of the view that there is no defence for the physical assault of a child. SCRA thinks that it is





time that professionals and families in Scotland no longer have to navigate the grey waters of 'reasonable chastisement'.

SCRA thinks that children would be more effectively protected by this change. We also think that parents will be affected and will have absolute clarity on the law which will force them to have to think about the additional consequences of any physical assault on their children.

- **Do you see any additional impact on groups with protected characteristics?**

Yes. Adults who have grown up with different cultural and behavioural norms may find it difficult to modify their parenting behaviour, and may have developed situational responses which may mean that they are more likely to be impacted by this legislative change. This group of adults may have themselves been subject to adverse childhood experiences (ACEs).

To mitigate for this SCRA thinks that the change to the law should be accompanied by a public awareness campaign to stress the way in which Scotland has changed – and why.

- **Are there any equalities and human rights issues raised by the approach taken in the Bill that should be considered?**

Nothing further than already discussed.

- **Will the Bill result in any resource implications for your organisation or you as an individual? If so, please explain and provide any supporting information.**

SCRA do not anticipate a surge of referrals in relation to this change to the law. There are different reasons for this – not least that we would expect very little change to professional





referral practices in relation to the behaviour of parents. Where professionals think that there is a ground for referral to the Children's hearing under section 67 92) (a) of the Children's Hearings (Scotland) Act 2011 and a need for a compulsory measure of supervision they should be referring these children to the Reporter. This happens now and should continue to happen. Reporters don't receive all the cases where parents assault their children – as there may be no need for a compulsory measure of supervision. There may also not be enough evidence in the case. The decision about whether to refer a child to the Reporter should not be affected one way or the other by this change. However, if the referral practice of Police Scotland was to change, then SCRA's position may also change in relation to resourcing.

- **Please tell us about any other comments you feel are relevant to the Bill.**

SCRA thinks that this change is the right thing to do in order to protect Scotland's children. We understand that the change will impact on societies understanding of what is and is not acceptable parenting behaviour, and this change will take some time to embed. SCRA feels strongly that there has to be a public awareness campaign designed to focus on the cultural shift which will have to happen as a result of this legislation.

**SCRA Practice & Policy Team 2018**

