

A framework for statutory bodies

The purpose of this framework document is:

- to explain the effect of the Children (Equal Protection from Assault) (Scotland) Act 2019 (“the Act”); and
- to establish a framework for implementation of the Act for statutory bodies¹ in Scotland.

The Act, its effect and background

The Act and its effect

The [Children \(Equal Protection from Assault\) \(Scotland\) Act 2019](#) (“the Act”) will remove the common law defence of “reasonable chastisement” from the law of Scotland on 7 November 2020.

If a parent or carer physically punished a child in their care before 7 November and was charged with assault, depending on the circumstance the reasonable chastisement defence could have been available.

In practice, the removal of the defence means that all forms of physical punishment of children by parents or carers will no longer be lawful in Scotland from 7 November 2020.

“Physical punishment” or “reasonable chastisement” have wide meanings which can include (but are not limited to):

- Smacking
- Hitting
- Pinching
- Slapping
- Skelping

¹ Bodies like Police Scotland and the Crown Office and Procurator Fiscal Service have already developed their own guidelines and practices specific to their role.



Children (Equal Protection from Assault) (Scotland) Act 2019

The Act does not create a *new* offence. It removes a defence being put forward by a parent or carer charged with f assault. This means that children will have the same legal protection from assault as adults.

The Act also requires the Scottish Ministers to take steps to raise public awareness and understanding about the effect of the removal of the defence. The Scottish Government is committed to providing support to parents and carers in Scotland as part of this.

Background

The Bill which became the Act was introduced to the Scottish Parliament by John Finnie MSP. The Scottish Government supported the removal of the reasonable chastisement defence.

The intentions behind the Act were broadly three-fold:

- To promote and protect the safety and wellbeing of children by providing them with the same protection from assault as adults, reflecting the body of evidence showing that physical punishment is harmful and is not an effective disciplinary tool
- To drive a change in attitudes towards the use of physical punishment
- To clarify the law and make it clear that no form of physical punishment will be permitted.

More information about the background to the Act can be found in John Finnie's [consultation](#) on his draft Bill, and the [documents](#) produced to accompany the Bill when introduced to Parliament.

The Scottish Government has published information about the Act on its [website](#).

A framework for implementation of the Act

In light of the effect of the Act, and its background and intentions, the following key principles have been identified which can inform and support the approach taken by statutory bodies to the implementation of this Act.

- **All forms of physical punishment are unlawful**

From 7 November 2020 no form of physical punishment will be lawful in Scotland. The aim is to clarify the law and drive a change in attitudes towards physical punishment. The change in the law makes it clear that physical punishment of children is never 'reasonable chastisement' and will no longer be justifiable in Scots law.

Individuals within statutory bodies can consider existing policies and practices in place in their organisation on what can be done if someone becomes aware that an unlawful act has taken place.

- **Support for parents**

Sometimes, parents or carers may want some additional help and support. Those working alongside children and families may be able to provide advice, information and support as part of their response to an act of physical punishment. This could be through the provision of information and advice, parenting programmes and/or other individual and family support as appropriate in each situation.

The [Family Support Directory](#) is a searchable directory of support, organisations and benefits available to parents and carers in Scotland to support children regardless of their age and situation.

The ParentClub website includes hints and tips on [managing behaviour](#) and [coping with parenting](#).

[Children 1st](#) provides practical and emotional support for families in Scotland. Parents and carers can call [Children 1st Parentline](#) on 08000 28 22 23, and web chat is also available. These are free services available every day of the year.

- **The wellbeing of a child is paramount**

The body of evidence exploring the effect of physical punishment supports the view that the physical punishment of children by adults, regardless of intention and context, can undermine a child's wellbeing and can have long term negative implications. Children have the right to be safe from harm, and the Act supports this.

The principles and policies of the [National Child Protection Guidance](#) can be taken into account in any relevant situation, such as where there are concerns that a child or young person has experienced or is at risk of significant harm.

Scottish Government

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