



# Ending physical punishment in Wales

## Frequently asked questions

### 1. Why is the Welsh Government removing the defence of reasonable punishment in Wales?

Welsh Government has a long history of supporting children's rights.

The Act will help protect children's rights by prohibiting the physical punishment of children.

This means that from March 2022 physically punishing children will no longer be legal in Wales.

The United Nations Convention on the Rights of the Child (UNCRC) continues to be the basis for our policy for children. It is central to our approach to give children the best start in life and help them achieve their potential.

The UN Committee on the Rights of the Child recognises that any physical punishment of children, however minor, is incompatible with the human rights of children under UNCRC Article 19, and has repeatedly called for it to be abolished. It has issued a **general comment (No. 8)** to highlight its recognition of the right of the child to respect their human dignity, physical integrity and equal protection under the law.



## 2. What is the current law?

Parents and those acting in loco parentis (in the place of a parent) are currently able to try to use the defence of reasonable punishment if they are charged with common assault against their child, or a child in their care.

This is not a defence an adult can use if they are accused of assaulting another adult. **The Crown Prosecution Service** guidance sets out cases where the reasonable punishment defence might currently be used.

- It should only be used where “the injury is transient and trifling and amounted to no more than temporary reddening of the skin” – otherwise, the punishment would be considered to be at a more serious level than common assault.
- Additional factors to take into account to decide whether the punishment was reasonable, include, for example, the nature, context and duration of the punishment, and the physical and mental consequences for the child.

## 3. How will the law change?

From March 2022 the common law defence of reasonable punishment will be abolished so it can't be used by any adult as a defence to assault and battery against a child. It will mean children will have the same protection from physical punishment as adults.

### **This does not create a new offence.**

The removal of the defence of reasonable punishment will relate to both criminal and civil law.



## 4. Who will be affected by the change in law?

From March 2022, the change in the law will apply to any adult in Wales caring for children and young people.

The physical punishment of children has long been outlawed in schools, children's homes, local authority foster care and childcare provision.

However, at present, the defence of reasonable punishment can still be used in unregulated settings which include some places of learning, worship, play or leisure. This Act will remove this loophole.

## 5. Will the law apply to those visiting Wales?

Yes. This law, like others, will apply to visitors and anyone who lives in Wales.

## 6. After March 2022, what will happen if I physically punish my child?

If the police receive a report or a complaint that a child has been physically punished by an adult, they will investigate that report and decide what action to take, if any, based on the facts.

In all cases the police and/or **Crown Prosecution Service** (CPS) will apply two tests – is there evidence to charge and is it in the public interest to do so. They will also consider what is in the best interests of the child.



## 7. Isn't this going to lead to the criminalisation of parents?

Changing the law does not of itself criminalise anyone. It is an individual's actions in relation to the law that may lead them to receiving a criminal record. If an adult physically punishes a child in their care after March 2022 they could be reported to the police. The action the police take will depend on the facts.

In all cases the police and/or CPS will apply two tests – is there evidence to charge and is it in the public interest to do so. They will also consider what is in the best interests of the child.

Convictions and out of court disposals, such as cautions, will always show on police records but may not show on Disclosure and Barring Service checks. This depends on a number of factors, which the police will consider.

## 8. Will this mean that children have the same protection from assault as adults?

From March 2022 children will have the same protection from physical punishment as adults.

There is a difference between physical punishment and the everyday physical interactions which take place between parents and children. Some of these could be classed as assault if they were to take place between two adults. For example, you would not usually dress an adult against their will (this would be assault) but as most parents know, sometimes it's tricky getting a child dressed and you have to do so against their will, on occasion, to keep them warm, to enable them to go outside and so on.

The common law acknowledges that certain physical interventions carried out by parents, in the exercise of parental authority in relation to children are necessary and lawful.

Adults use physical interventions to keep children safe from harm, such as holding back a child from running into a road or restraining a child to keep them from injuring themselves or others, or stopping them putting their hand into a fire or onto a hot surface. These types of interventions are all about keeping a child safe.

Parents cuddle, brush hair, brush teeth, play 'rough and tumble', and lift children into car seats on a daily basis. The legislation does not prevent any of these activities – it only seeks to end physical punishment.



## 9. How many other countries have taken action against the physical punishment of children?

Over 55 states around the globe have prohibited all physical punishment of children.\* The first was Sweden in 1979. Scotland have voted to change the law and it will come into force there in November 2020.

\*According to [Global Initiative to End All Corporal Punishment of Children](#).

## 10. What do parents think about physically punishing children?

Attitudes to parenting practices have changed over the years.

Welsh Government surveys of parents and guardians of young children in Wales have shown a shift in attitude.

For example, in 2017\*, 81% of parents and guardians of young children in Wales disagreed that it is sometimes necessary to smack a naughty child, compared with 71% in a similar survey in 2015.\*

There has also been a significant reduction in the number of parents of young children in Wales who said they smack their children and only a minority of parents said they are comfortable with the idea.

\*Welsh Government. 2016. "The Attitudes of Parents Towards Managing Young Children's Behaviour: National Survey for Wales, 2014-15 – Re-contact Survey".

\*Welsh Government. 2018. "Parental attitudes towards managing young children's behaviour National Survey for Wales, 2016-2017 – Re-contact Survey".

There is a suite of Welsh Government Research to support the legislation, including: *Welsh Government 2019 "Public attitudes to physical punishment of children: baseline survey, 2018"* and further research will be commissioned to monitor attitudes and awareness.



## 11. Does physically punishing a child cause long-term harm?

The Policy Institute for Wales (PIIW) – now the Wales Centre for Public Policy (WCPP) - conducted a review of the evidence about children's attitudes towards physical punishment and the link between parental physical punishment and child outcomes. The review was published on 19 July 2018.\*

Overall, the balance of evidence supports the following conclusions:

- Severe physical punishment and child abuse are harmful to child development;
- Although there is no definitive evidence that 'reasonable' physical punishment causes negative outcomes for children, there is evidence that it is associated with negative outcomes;
- There is no reliable evidence demonstrating that 'reasonable' physical punishment has long-term developmental benefits, or is more effective at changing short-term behaviour, relative to other, non-physical means;
- Physical punishment for defiant children is no more effective at changing short-term behaviour than other forms of non-physical discipline;
- The majority of researchers in the field make the judgement that all physical punishment under all conditions is potentially harmful to children.

\*Public Policy Institute for Wales. 2018. "Parental Physical Punishment: Child Outcomes and Attitudes."



## 12. Is this the end of parental discipline?

No. Every child needs discipline; it is an essential part of good parenting. However, there is a big difference between discipline and physical punishment.

Discipline is about providing a child with boundaries, guidance and support so they learn appropriate behaviour. The legislation would not affect a parent's ability to do this.

Physical punishment is not a necessary part of disciplining children and this legislation will prohibit its use.

## 13. Why do you use the term physical punishment and not smacking?

Smacking is what we may first think about when we think of physically punishing a child but physical punishment is not limited to smacking.

There is no definitive list of what physical punishment is as there are endless ways to physically punish children.

## 14. What will be the impact of the change in law on public services?

The Police, the Crown Prosecution Service and Social Services already receive and investigate reports of children being physically punished and use their standard procedures to determine on a case by case basis how best to proceed.

We are working closely with them, and other key stakeholders, through an Implementation Group to consider what revisions may be needed, if any, to their processes, procedures, guidance and training.



## 15. What should I do if I see a child being physically punished when the law changes?

If there are concerns now about a child, individuals can highlight these to Social Services or the Police. The change in the law does not change this.

Safeguarding is everybody's business.

## 16. What is the Welsh Government doing to help support parents?

The Welsh Government has developed the legislation as part of a much wider package of support for children and their parents which is already in place.

This includes:

- The Parenting. Give it Time campaign, which aims to help parents to do the best job they can, by providing positive parenting tips and information.
- Access to a range of services to promote positive parenting delivered by local government, health, education, social services, social justice and the third sector.
- More targeted support, such as Flying Start and Families First, which offer help and advice to parents.





## 17. Where can I find more advice and support on parenting?

There are many ways to find out more – including:

- Your health visitor or GP.
- The **Parenting. Give it Time.** campaign, provides positive parenting tips and information.
- Welsh Government Family support programmes Flying Start and Families First, may be able to offer support and advice.
- Your local Family Information Service will be able to tell you what advice, support and activities are available in your area. You can contact them by telephone on 0300 123 7777.
- The **NSPCC Take 5** campaign provides hints and tips to help parents keep their cool in challenging parenting situations.
- It may also help to talk things over. **Family Lives** offers a confidential and free (from landlines and most mobiles) helpline (previously known as Parentline). You can call on 0808 800 2222 for information, advice, guidance and support on any aspect of parenting and family life. The (English language) helpline is open 9am – 9pm, Monday to Friday and 10am – 3pm Saturday and Sunday.