



Ending physical punishment in Wales

Frequently asked questions

1. What is physical punishment?

There are lots of types of physical punishment. It can mean smacking, hitting, slapping and shaking. But there are other types too.

It isn't possible to give a set list of what makes up physical punishment because it can be anything where a child is punished using physical force.

2. Why is the Welsh Government changing the law?

Welsh Government has a long history of supporting children's rights. The Act will help protect children and their rights by prohibiting the physical punishment of children. This means that from 21 March 2022 physically punishing children (aged 0-18 years old) will be illegal 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 (the right to protection from all forms of violence) and has repeatedly called for it to be abolished. Its [general comment \(No. 8\)](#) highlights that children, like everyone else, have a right to respect for their human dignity, physical integrity and equal protection under the law.



3. What is the current law?

Parents and those acting in loco parentis (in the place of a parent) do not have the legal right to smack or use any other physical punishment against a child unless it is considered 'reasonable punishment'. Currently, if a person is charged with common assault whilst looking after a child in their care, they could try to defend their actions by saying the punishment was reasonable. This is the defence of reasonable punishment. It isn't available for any level of assault more serious than common assault, such as actual bodily harm. This is not a defence an adult can use if they are accused of assaulting another adult.

Whether the physical punishment amounts to reasonable punishment depends on a number of factors. [The Crown Prosecution Service](#) (CPS) 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

4. I thought physically punishing children was already illegal?

The present situation is confusing. Hitting a child is assault, but the existence of the defence of reasonable punishment creates a grey area for any punishment which is common assault – where less force is used than for more serious assaults such as actual or grievous bodily harm. Removing the defence of reasonable punishment will bring clarity, making it easier for children, parents, professionals and the public to understand the law. From 21 March 2022, this defence will no longer be available in Wales; all types of physical punishment will be illegal.



5. How will the law change?

From 21 March 2022 the common law defence of reasonable punishment will be abolished so it can't be used by anyone as a defence to assault and battery against a child. It will mean children will have the same protection from assault 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.

6. Why doesn't the new law cover mental and emotional abuse?

Welsh Government appreciates that emotional harm can be damaging to a child. The UNCRC also recognises that it is important to care for children emotionally as well as physically.

Sustained emotional abuse which causes emotional harm is already illegal. The offence of cruelty to persons under 16 years incorporates suffering of a psychological nature, as set out in the Children and Young Persons Act 1933 (section 1).

The Social Services and Well-being (Wales) Act 2014 sets out the duties of agencies towards children at risk of physical abuse or neglect. Categories of abuse include emotional/psychological abuse.

This legislation simply removes the defence of reasonable punishment as a defence to assault and battery against a child.



7. Will the change in law apply to everybody in Wales?

Yes, it will apply to everyone - parents or anyone who is responsible for a child while the parents are absent.

The physical punishment of children is already illegal 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.

8. Will the law apply to those visiting Wales?

Yes. As with other laws, it will apply to visitors to Wales too.

9. What happens if I physically punish a child from 21 March 2022?

If you physically punish a child you

- will be breaking the law
- risk being arrested or charged with assault
- may get a criminal record which is the same for any criminal offence.

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](#) 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.



10. 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 21 March 2022 they could be reported to the police. The action the police take will depend on the individual circumstances of the case.

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.

If the police decide to take further action (e.g. where there is sufficient evidence and it is considered to be in the public interest) then they will determine the most appropriate disposal that is suitable in the circumstances and proportionate to the offence committed. Out of court disposals (OOCs) (Community Resolution and Conditional Caution) are a way of dealing with less serious offending and provide an alternative to prosecution through the courts.

The focus of OOCs is on rehabilitation and conditions are attached such as attending a course. A Community Resolution does not form part of an individual's criminal record but it may be disclosed as part of an enhanced Disclosure and Barring Service (DBS) check. A Conditional Caution forms part of a person's criminal record and would be revealed as part of a DBS standard or enhanced check. For further information on criminal records and disclosure and barring please see Annex 5 of the [Explanatory Memorandum](#).

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

Yes. From 21 March 2022 children will have the same protection from assault as adults.



12. Will the law affect every day parenting behaviours?

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). 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. However after you have seen your child do something dangerous if you also react by smacking your child, you are physically punishing them and this would not be acceptable under the law.

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.



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

Over 60 states around the globe have prohibited all physical punishment of children.* The first was Sweden in 1979. The law changed in Scotland in November 2020.

*According to *Global Initiative to End All Corporal Punishment of Children*

14. 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 **2019**, 70% of parents and guardians of young children in Wales disagreed that it is sometimes necessary to smack a child, compared with 59% in a similar survey in **2018**.

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.

A higher percentage of people surveyed in 2019 reported being in favour of removing the defence of reasonable punishment than in 2018. Further research will be commissioned to monitor attitudes and awareness.



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

Research suggests that any type of physical punishment could be harmful to children.

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.



16. 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.

17. 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. See question 1.

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

The Police, the CPS 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 a [Strategic Implementation Group and task and finish groups](#) to consider what revisions may be needed, if any, to their processes, procedures, guidance and training.

19. What should I do if I see a child being physically punished or if I am concerned about a child?

If you are concerned that a child is being physically punished you can contact your local social services department.

You can also call the police in an emergency or if a child is in danger.



20. 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 by providing positive parenting tips and information, developed and endorsed by experts or practitioners who support parents.
- Access to a range of services to promote positive parenting delivered by local government, health, education, social services and the third sector.
- More targeted support, such as Flying Start and Families First, which offer help and advice to parents.

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

Parenting. Give it time offers positive parenting practical hints, tips and expert advice to encourage good behaviour from children and alternatives to physical punishment. Their **parenting support page** offers links to further support and helplines.

Universal parenting support and advice is provided by midwives, health visitors, GPs and **Family Information Services**.

Early help programmes such as **Flying Start** (if you live in a Flying Start area) and **Families First**.