



Domestic Abuse Bill – protecting adults and children from violence

The Association of Educational Psychologists fully supports the aims of the Domestic Abuse Bill. We believe that all people, be they adults or children, should be protected from violence in any setting, including their home. We welcome the initiative of a cross party group of Peers to introduce a new clause to the Bill that would provide greater protection to children from violence in the home, by repealing the legal defence of ‘reasonable punishment’.

The Amendment

The amendment would Insert the following new clause – “Repeal of defence of reasonable punishment (1) Section 58 of the Children Act 2004 is repealed. (2) In relation to any offence, battery of a child cannot be justified on the ground that it constituted reasonable punishment.”

The amendment has been tabled by Baroness Bennett of Manor Castle, Baroness Walmsley, Baroness Whitaker and Baroness Finlay of Llandaff.

Current law on corporal punishment

Corporal punishment was banned in state schools in England in 1986, with a full ban in place in all schools in all parts of the UK by 2003. Restrictions on corporal punishment by a parent or caregiver were introduced in 2004, Section 58 of the Children Act. These mean that parents could be charged with common assault if a physical punishment causes bruises, grazes, scratches, minor swellings or cuts. However, a defence of “reasonable punishment” is still available in the law and a parent, or caregiver, can smack or otherwise physically hurt a child within the law.

Legal experts say that even when there is physical evidence of severe punishment it is almost impossible to prove that punishment is unreasonable. The legal test is whether the parents’ intent was reasonable, rather than the actual harm caused, and it is difficult to obtain evidence given that the violence happens behind closed doors.

England’s law is behind the times

The UN Convention on the Rights of the Child, which was signed by the UK in 1990, requires the prohibition of all corporal punishment in all settings. Article 19 of the UNCRC requires states to take legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence. The UN Committee on the Rights of the child has affirmed that this includes protection from all forms of corporal punishment.

Sixty countries already have full bans, including Sweden, Ireland, Spain, Germany and Portugal. Scotland and Wales have both recently legislated to ban the physical punishment of children, and the Northern Ireland Assembly is considering the same issue. This means that England’s continued acceptance of the physical punishment of children is completely out of line with the good practice demonstrated within other parts of the UK and many other countries - the physical punishment of children has been outlawed in the majority of OECD countries.



The case against physical punishment of children

Research shows that corporal punishment frequently leads to a lower quality of the parent and child relationship, poorer mental health in childhood and adulthood, higher levels of aggression and anti-social behaviour and an increased risk of being a victim of physical abuse. It can be a contributory factor to the overall levels of ongoing stress felt by children now being recognised as part of research into the impact of ACEs (Adverse Childhood Experiences) on children's later development.

Educational Psychologists strongly believe that smacking is harmful to a child's mental health. It models aggressive behaviour and communicates to children that it is acceptable to use violence as a means of expression. There are many other more effective ways of teaching children right from wrong than by hitting them.

Force escalation is a key issue. [Research](#) shows that when force is used there are changes in brain activity that lead to an escalation in the degree of force used. In a survey of parents, 2 in 5 admitted to using a different degree of force than intended.

Where is the evidence?

A recent [major review of the evidence on physical punishment](#) was carried out by Barnardo's, the NSPCC and other organisations. It concluded: "There is strong and consistent evidence from good-quality research that physical punishment is associated with increased childhood aggression and antisocial behaviour. The multitude of these studies, which include observational, gene-environment and experimental designs, and the consistency of their findings suggest that these links are indeed causal. Several studies showed that the relationship between physical punishment and problem behaviour is reciprocal: physical punishment exacerbates existing problem behaviour, leading to a vicious circle of cascading conflict. In other words, parents who are using physical punishment in response to perceived problem behaviour are likely to make it worse. Moreover, [there is fairly consistent evidence](#) for a link between childhood physical punishment and adult aggression or antisocial behaviour, suggesting that the effects of increased aggression among children who were subjected to physical punishment carry over into adulthood."

Public attitudes to smacking

Public opinion is mixed and there is a difference in the view of older respondents, and current parents of young children. 80% of current parents of children believe that smacking is already unlawful. They also show that the overwhelming majority believe that smacking is unnecessary. [In a 2019 opinion survey of parents in Wales](#), 62% of parents and caregivers of children aged 7 and under, responded that they disagree with smacking. Only 5% in the survey expressed strong agreement that 'it is sometimes necessary to smack a child'.

On public opinion, we agree with Professor Sir Michael Marmot when he says: There is an urgent need for the UK to comply with international human rights law and to prohibit all forms of physical punishment. Politicians need to be bold and provide a lead in this major



social and public health issue. As was the case with smoke free legislation, public attitudes and social norms will change once legislation is introduced and the benefits are evident.”

Our view on the main arguments against a ban

“Smacking never harmed me”. The extent of harm to a child caused by physical punishment will be linked to many factors, including the quality of the parent child relationship and the nature of, and frequency of, physical punishment. Research now shows that smacking can cause harm. Anecdotal reports suggest that some adults who believe that it didn’t do them any harm to them, do in fact, choose not to use it with their own children.

“This will criminalise parents”. The intention of legal change is not to criminalise parents but to help redefine what is acceptable in how we treat our children – and each other – and what we teach them through our own behaviour. Legal reform to protect all children fully against assault is a simple but fundamental preventative measure. Parents will still be able to physically interact with their child, such as to pull them away from danger, hold or restrain a child where needed. There is no evidence from other nations that have enacted a ban that this has led to criminalisation of parents.

Supporting parents

The AEP is working closely with the Government in Wales to introduce new advice and guidance that supports parents to use positive parenting strategies so as to better understand and anticipate their children’s behaviour and be more confident about how to set boundaries and support their children in developing self-regulation etc: <https://gov.wales/parenting-give-it-time/understanding-and-responding-behaviour>

A child’s perspective

The [National Children's Bureau and Save the Children consulted](#) 76 five, six and seven year-olds about smacking. Responses included:

- 'It feels like someone banged you with a hammer' (5 year-old girl)*
- 'It hurts and it's painful inside—it's like breaking your bones' (7 year-old girl)*
- '[It feels] like someone's punched you or kicked you or something' (6 year-old boy)*
- ... 'you're hurt and it makes you cry [and] drips come out of your eyes' (5 year-old girl)*

What do we want you to do?

We are grateful to Baroness Bennett and Baroness Walmsley for meeting with the AEP. They indicated that this amendment may not be pressed to a vote at this time. However, they are keen to build support in Parliament for a change in the law.

We would appreciate it if you would:

1. Let the sponsors of the Bill know that you are supportive
2. Speak in the debate if you are able to



3. Find further opportunities in the Lords to raise this issue, in debates, questions and so on
4. Agree to meet with the Association of Educational Psychologists to discuss this campaign further. If you would like to arrange a meeting with Kate Fallon, General Secretary of the AEP, please contact aep@connectpa.co.uk

Who else supports a ban?

We are working with a range of organisations who also support a ban, including:

- The Social Workers Union
- British Psychological Society
- Royal College of Paediatrics and Child Health
- Centre for Mental Health
- Professional Association for Childcare and Early Years
- Children's Rights Alliance for England, part of Just for Kids Law
- National Children's Bureau
- UNISON
- Prospect Education and Children's Services Group
- Children England
- YoungMinds
- Royal College of General Practitioners
- Action for Children

If you require any further information or would like to request a meeting with the Association of Educational Psychologists, please email aep@connectpa.co.uk.