

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE**DATA PROTECTION FORM**

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Date:	25.01.19
Organisation: (if required)	Scottish Youth Parliament
Topic of submission:	Children (Equal Protection from Assault) (Scotland) Bill

I have read and understood the privacy notice about submitting evidence to a Committee.

I am happy for my name, or that of my organisation, to be on the submission, for it to be published on the Scottish Parliament website, mentioned in any Committee report and form part of the public record.

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EQUALITIES AND HUMAN RIGHTS COMMITTEE

CHILDREN (EQUAL PROTECTION FROM ASSAULT) (SCOTLAND) BILL

SUBMISSION FROM SCOTTISH YOUTH PARLIAMENT

Introduction

The Scottish Youth Parliament represents Scotland's young people. Our vision for Scotland is of a nation that actively listens to and values the meaningful participation of its children and young people. Our goal is to make this vision a reality, in order to ensure Scotland is the best place in the world to grow up.

We are a fundamentally rights-based organisation, and our mission, vision and values are grounded in the United Nations Convention on the Rights of the Child (UNCRC). In particular, our purpose embodies Article 12: that young people have the right to express their views freely and have their opinions listened to in all matters affecting them. As a completely youth-led organisation, the words and sentiment of Article 12 have a profound importance for our work.

Our democratically elected members listen to and recognise the issues that are most important to young people, ensuring that their voices are heard by decision-makers. We exist to provide a national platform for young people to discuss the issues that are important to them, and campaign to effect the change they wish to see.

SYP's values are:

Democracy – We are youth-led and accountable to young people aged 12 to 25. Our democratic structure, and the scale of our engagement across Scotland, gives us a mandate that sets us apart from other organisations.

Rights – We are a fundamentally rights-based organisation. We are passionate about making young people aware of their rights, and ensuring that local and national government deliver policies that allow those rights to be upheld.

Inclusion – We are committed to being truly inclusive and work tirelessly to ensure the voices of every young person from every community and background in Scotland are heard.

Political Impartiality – We are independent from all political parties. By working with all stakeholders, groups, and individuals who share our values, we can deliver the policies that are most important to young people.

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Background

The Scottish Youth Parliament (SYP) welcomes the Equalities and Human Rights Committee's (EHRiC's) call for views on the Children (Equal Protection from Assault) (Scotland) Bill (hereinafter referred to as the 'Bill'). This response has been approved by our Conveners Group, ten young people democratically elected to lead the ten Subject Committees at SYP, who collectively lead on policy and campaigns. It is based on our organisational response to the public consultation by John Finnie SMP on their Bill proposal, carried out in summer 2017, available [here](#).

SYP's response is informed by our work with our partnership organisations who have led the campaign for equal protection from assault from children and young people (Children 1st, Barnardo's Scotland, NSPCC Scotland, and Children & Young People's Commissioner Scotland).

SYP will also be engaging with the EHRiC on this Bill at our 68th National Sitting in Midlothian in March 2019, to ensure children and young people are meaningfully involved in paving the way forward in terms of ensuring their equal protection from assault in Scotland. We offer to provide oral evidence as the Bill is considered in the Scottish Parliament.

Response to key issues relevant to SYP in EHRiC's call for views

Do you support the Bill's aim to end the physical punishment of children by parents or carers?

SYP fully supports the Bill's aim. We believe it is unacceptable that the physical assault of children and young people can be justified in Scots law any longer. In our Lead the Way (2016-2021) manifesto, we conducted a mass consultation on young people's views on various issues, securing 72,744 responses. One of our resulting manifesto commitments, the highest level of SYP policy, is:

'All physical assault against children should be illegal.'

Respondents, who were aged 12-25, were overwhelmingly in support of this statement, receiving 82% agreement of our membership. Only 6% disagreed, and 12% abstained.

As an organisation we champion young people's rights. In order to ensure Scotland is the best place in the world to grow up, we believe that Scotland should be leading the way in terms of fundamental rights protection.

For example, as part of our 2017-18 national campaign on young people's rights, selected by over 4,000 young people across Scotland, *Right Here, Right Now* - we called for the incorporation of the UNCRC into Scots law to make UNCRC rights *binding, not guiding* – securing a commitment from the First Minister to do this in the Programme for Government 2018-19.

It is our view that Scotland cannot be regarded as the best place in the world in which to grow up when our law gives children and young people less protection from assault than anybody else in society. Indeed, Scotland is lagging behind internationally, as only one of five European Union member states which still permits physical punishment of children.

The national and international research is loud and clear on this issue – physical punishment of children and young people is detrimental to children and young people’s long-term health and wellbeing and adult outcomes, carries a high risk of escalation into abuse, and receives decreasing public support.¹

Physical punishment is a violation of children and young people’s rights, as has been identified repeatedly by the UN human rights committees, the Council of Europe and the EU. As stated in the [consultation paper](#) for the Bill proposal, it is contrary to Scotland’s human rights obligations (such as Article 19 of the UNCRC and certain provisions of the European Convention of Human Rights as incorporated in the Human Rights Act 1998), and Scotland’s *Getting It Right for Every Child* policy.

SYP believes the defence of ‘reasonable chastisement’ in common law, cemented by the ‘justifiable assault’ concept in Section 51 of the Criminal Justice (Scotland) Act 2003, is discriminatory as it results in weaker protection from assault for the youngest in society.

The blurred lines ‘justifiable assault’ of children and young people creates conflate with commitments in the Programme for Government 2018-19 to prevent adverse childhood experiences from happening in the first place as a moral imperative (page 4).

Children and young people merit equal, if not greater, protection from physical punishment, and certainly not less protection. This can only be done through legislation, and it needs to happen sooner rather than later. We must remove this abhorrent legal anomaly that allows people to hurt one of the most vulnerable sections of our society.

The main advantages of the Bill highlight which groups would be impacted (see italics):

- *Children and young people* would have the same legal rights and protection from assault as adults.
- It would break any cycles of violence and safeguard the rights, health and wellbeing of children and young people. This would result in improvements in mental health, better educational attainment and a reduction in aggression and anti-social behaviours.
- It would shape public attitudes towards the practice of physical punishment against children and young people, ultimately reducing its prevalence.
- It would also bring the law up-to-date with society’s declining support and use of physical punishment against children and young people.
- Scotland would be in compliance with its international human rights obligations, setting a good example internationally and sending out a clear message that *our*

¹ The findings in this response are further based on the following research report: Heilmann, A., Kelly, Y. and Watt, R.G. (2015) Equally protected?: a review of the evidence on the physical punishment of children. London: NSPCC. Available [here](#).

society does not tolerate violence, and that we treat each other with dignity and respect.

- *Parents and carers* will have stronger and healthier relationships with children and young people.
- It would make the law and what is acceptable clearer to parents and carers.
- It is an opportunity to promote positive parenting or caring strategies.
- It would underpin Scotland's efforts to reduce violence in society, as well as adverse childhood experiences.

For the reasons stated, SYP fully supports the Bill's aim.

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

As previously stated, the Bill is likely to afford children and young people with the same legal rights and protection from assault as adults, alleviating the age-discriminatory effect of Scots law as it stands as regards physical punishment. This will promote inter-generational justice. It would also help to ensure that love is enshrined in Scotland's care system by removing the blurred lines 'justifiable assault' of children and young people with care experience creates – protecting this vulnerable group with great potential from any further harm.

Parents and carers would benefit from the proposed Scotland-wide information campaign to raise awareness of the change in the law; educational materials aimed at supporting parents and changing public attitudes towards physical punishment; and additional parenting support. The proposed 'Duty of Scottish Ministers to raise awareness' in the draft Bill would ensure this.

The Bill will have a positive effect on all sexes and gender identities, enshrining the message that there alternative, more effective and less detrimental ways to discipline children and young people and deal with familial conflict than violence, which is often gendered in nature.

Parental guidance accompanying the legislative change will need to be culturally sensitive and available in a variety of languages, to ensure parents and carers of all religious and racial backgrounds are included and provided with appropriate support.

It will also need to be aimed at tackling generational issues where some grandparents or other older relatives who look after children and young people support physical punishment as a form of discipline, as well as for parents or carers with disabilities or additional support needs.

Conclusion

SYP fully supports the aims of the Bill and believes that the Scottish Parliament as a rights guarantor should ensure its swift passage into Scot law, especially given the Scottish Government's support for this legislative change as per the Programmes for Government 2017-18 (page 81) and 2018-19 (page 82).