
Physical punishment legislation in Scotland

New legislation came into force in Scotland on Monday 27th October, to make it illegal to punish children by shaking, hitting on the head or using a belt, cane, slipper, wooden spoon or other implement.

The new legislation is not confined to banning the specific types of behaviour mentioned above. In addition, if a court were looking into the physical punishment which a child had received, it would consider:

- The child's age
- What was done to the child, for what reason and what the circumstances were
- The duration of the punishment and the frequency
- How it affected the child (physically and mentally)
- Other issues personal to the child, such as their gender and state of health

How were the changes arrived at?

The new legislation was informed by the results of a detailed consultation exercise¹ followed up by additional research carried out with groups of ordinary parents from across Scotland.²

Although there was not widespread support for smacking to be banned altogether, there was near total agreement for the more dangerous forms of physical punishment to be banned.

Previously, the law allowed parents the right of 'reasonable chastisement' in disciplining their children. Parents were able to administer moderate physical punishment to their children without being liable for damages or a criminal conviction for assault. But the concept of 'reasonable chastisement', which dates back to Victorian times, is difficult to define in the

21st century. So to protect children from harsh physical punishment the law has been clarified and brought up to date.

Promotional and explanatory materials

The Scottish government produced and distributed materials to explain the changes in the law and encourage more constructive forms of discipline. It explains that smacking has not been banned altogether but outlines the reasons why smacking is not advisable as a method of disciplining children since it:

Can be dangerous - it is easy to forget how delicate children are, particularly if you are frustrated or angry. What feels to you like a light slap can have the potential to cause real harm to a small child.

Sets children the wrong example - rather than correcting misbehaviour, it can teach children to hit out at people who are doing things they don't like or who don't do what the child wants them to do.

Has effects which last long after the physical pain dies away - young children will not necessarily associate the punishment with their behaviour. It can make them angry and resentful and can be damaging to their confidence and self-esteem.

Smacking is not an effective way to teach children discipline.

Source: *Scottish Executive website*

<http://www.scotland.gov.uk/library5/justice/cppl-00.asp>

See also:

Children, physical punishment and the law - A Guide for Parents in Scotland

And for more on discipline, see the Barnardo's booklet '**getting positive about discipline**'.

Footnotes

1. *The Physical Punishment of Children in Scotland: A Consultation* (Scottish Executive, 2000)

2. *Disciplining Children: Research with Parents in Scotland* (NFO System Three for Scottish Executive, 2002)