

Staff briefing

Children (Equal Protection from Assault) (Scotland) Member's Bill

What is it?

This bill relates to what has sometimes been known as the “smacking ban”. It was recently backed overwhelmingly by Members of the Scottish Parliament with a majority of 84 votes in favour against 29 not in favour.

The bill will now pass into legislation, the effect of this being that there will be no legal defence if an adult is prosecuted for assaulting a child.

It has previously been acceptable in Scots law for parents to use “reasonable” physical force to discipline children. Until now it has been possible for an individual who has been prosecuted for assaulting a child to defend themselves on the basis that the assault was justifiable because they were using reasonable chastisement. That will no longer be possible to argue as a defence.

The passing of this bill by members is a very positive step forward for children's rights in Scotland. Children now have the same right as adults not to be assaulted. Scotland is the first country in the UK to pass such legislation. The impact of similar legislation in other countries has been positive and these countries have usually seen a decrease in the use of physical violence against children and an increase in child wellbeing.

What does it mean for my practice?

This does not require any fundamental practice change in our children's services given the implementation of GIRFEC, restorative practice, strengths based and rights-based approaches.

Our first approach, if and when we see a parent smacking a child, should be to engage with them to find out what has triggered the incident and to offer advice and assistance as appropriate. As part of that conversation, we can now give a clear message that smacking is against the law. However, the priority is to de-escalate conflict to help the parent avoid repeating their behaviour and to improve relationships. It is not necessary to immediately report someone to the police if you think that preventive action can be taken to minimise the risk of the behaviour being repeated. As always, professional judgement should be applied when considering whether to raise a child protection concern.

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