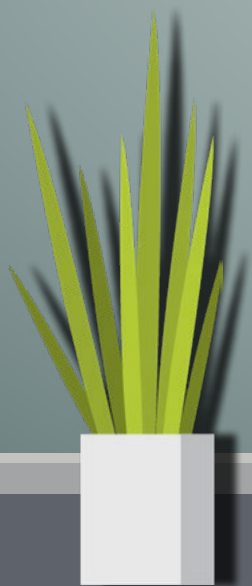
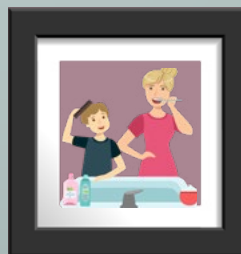
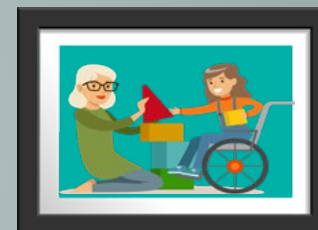
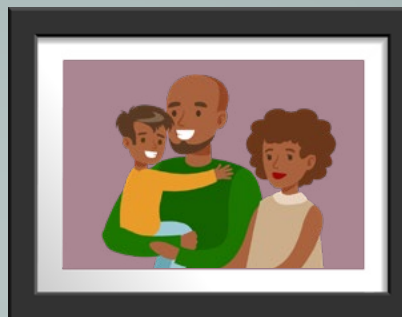


Removing the 'defence of reasonable punishment'



Llywodraeth Cymru
Welsh Government



A community version

Introduction

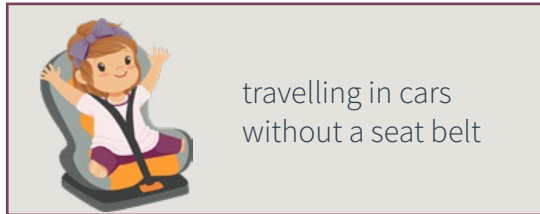
Being a parent is rewarding and often fun but it can also be challenging.

The Welsh Government supports families and we want to help them raise healthy, happy children.

We want children to have the best start in life.

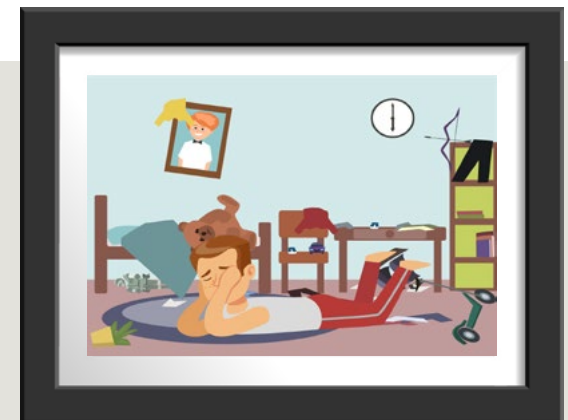
Over the years parenting has changed. We know more now about what children need to grow and be safe.

We no longer allow:



These laws keep children safe and improve lives.

But we want to keep moving forward and do more.



We want to remove the ‘defence of reasonable punishment’.

This is not making a new law, it’s changing an old one.

People have strong views on parenting and we want to know what you think of this plan.

Reasonable punishment

Children need discipline to understand what is right and wrong and how to behave. It's currently against the law to hit a child except when this is seen as a 'reasonable punishment'.

Smacking used to be a normal part of parenting. Children do need discipline. But, discipline is different from physical punishment.

Removing the defence makes it clear that physically punishing children isn't acceptable in Wales.



What the law says

The '**reasonable punishment**' defence became law in Victorian times.

In 1860 a boy was beaten by a teacher. The teacher had permission to punish the child from his father.

But this led to the boy's death.

During the trial the Chief Justice said

*"A parent or a schoolmaster, who has parental authority delegated to him, may for the purpose of correcting what is evil in the child inflict moderate and reasonable punishment. However, it has to be **moderate and reasonable.**"*

This law means adults can defend their actions by saying the punishment was reasonable.

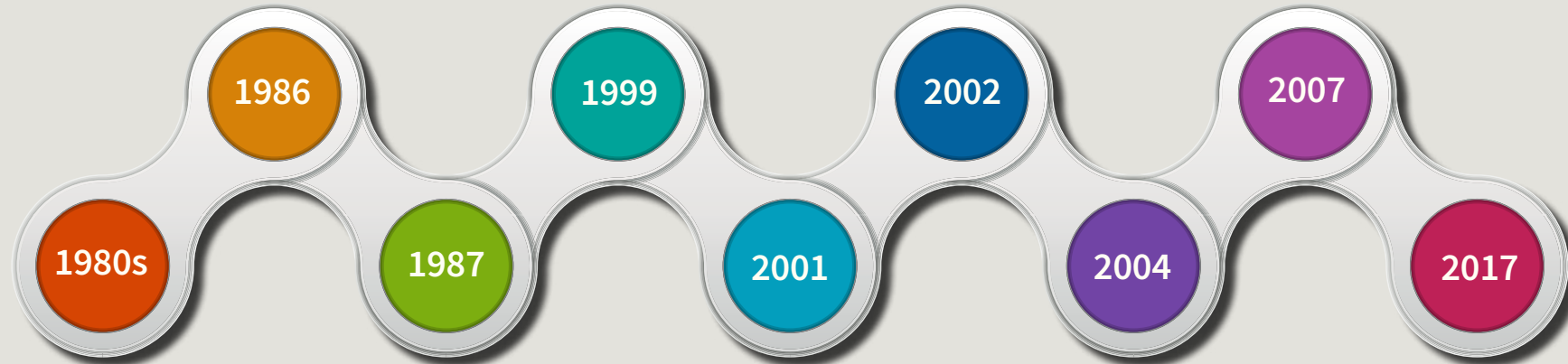
Timeline

1986 – UK Parliament looked at the law and started to make changes.

1999 – Physical punishment was stopped in independent and private schools.

2002 – Physical punishment was stopped in all Local Authority foster care.

2007 – Physical punishment was stopped in all childcare provision in UK.



Up to the 1980s – Physical punishment was common in schools.

1987 – Physical punishment was stopped in all local authority schools.

2001 – Physical punishment was stopped in children's homes.

2004 – The Children Act 2004 limited how the reasonable punishment defence could be used.

2017 – Children still have less protection from physical punishment than adults.

Evidence and the case for change

Evidence shows us that physical punishment:

- doesn't improve behaviour in the long term
- can have negative effects on children
- is becoming less acceptable to many parents.

Proving the impact on children and collecting evidence can be difficult. Some parents answer with what they think is acceptable or talk about smacking or being smacked in the past.

Some professionals and parents argue that smacking doesn't cause harm if done only rarely.

However, they don't set out what rarely means and don't address that smacking can sometimes go from milder to harsher over time.

There is evidence that suggests children who live with repeated corporal / physical punishment are more likely to have:

- difficult behaviours
- fewer opportunities and lower academic achievement
- child mental health issues
- mental health issues later in adult life
- increased risk of being a victim of physical abuse
- an increased risk of abusing others.

Attitudes to parenting are changing.

Is it sometimes necessary to smack a naughty child?

In **1998**, the Department of Health asked 2000 British adults

88% said yes

In **2015** the Welsh Government asked 387 parents with children under 6 the same question

24% said yes

Should there be a complete ban on parents hitting their children, even a smack as a punishment?

In 2013 – we asked 1,022 people in Wales with children under 18

28% agreed

51% disagreed

In 2015 – we asked 387 parents with children under 6 the same question

46% agreed

43% disagreed

Rights

Everyone has rights. Any laws we make must fit in with the European Convention on Human Rights (ECHR). This includes removing the defence of reasonable punishment.

The main rights this links to are:

ARTICLE 8: Right to respect for private and family life

ARTICLE 9: Freedom of thought, conscience and religion

We can't make any changes to rights unless it is necessary for:

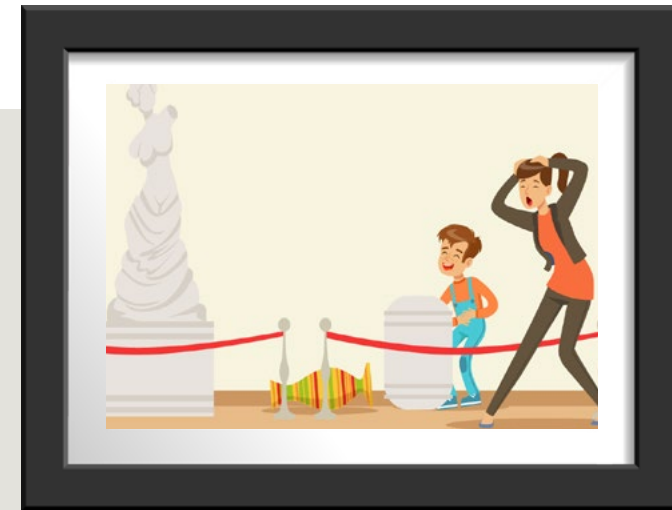
- national security and public safety
- economic well-being of the country
- for the prevention of disorder or crime,
- for the protection of health or morals, or
- for the protection of the rights and freedoms of others.

This change to the law is to protect the rights and freedoms of others – children.

It also fulfils our duty to the **United Nations Convention on the Rights of the Child** (UNCRC).

Article 19 says:

“There must be the right laws and measures in place to protect children. This includes from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”



What we want to do

We want to remove the defence of reasonable punishment in Wales.

This will mean that:

- **Children will no longer have less legal protection from physical punishment than adults.**
- **The reasonable punishment defence will no longer be available to use.**
- **No adult looking after a child can use physical punishment against them.**
- **The loopholes or gaps in the law that allow children in some settings to be physically punished will be removed.**



Will this criminalise some parents?

We understand this fear. But this hasn't happened in other countries that changed their law. In New Zealand, the police data shows no rise in reports or in parents being prosecuted for 'light smacking'. However, the police were able to point families to other services when needed. They were also able to prosecute acts that included children being punched in the face, hit multiple times or assaulted in anger.



Supporting Parents

Children need boundaries. We want to help parents manage their child's behaviour without using physical punishment. We will support parents to know how to use positive parenting as part of these changes.

Positive parenting means:

- having clear, consistent and age-appropriate boundaries
- helping children know where the limits are
- providing the right supervision
- letting children know what behaviour you expect from them
- praising good behaviour
- modelling good behaviour
- handling problem behaviours without using physical punishment or excessive shouting
- being encouraging and supportive.



Parents and carers can get advice and support from:

- the “[Parenting. Give it time](#)” – website and media campaign supports parents raising children under 5
- health services including GP's and health visitors
- local authority services
- education services
- the Families First programme
- Flying Start programme
- many other organisations.

Impact on Public Bodies and services

Local authorities, police and other services are having to do more and resources are stretched. We talked to them about removing the defence.

The Police

All four police forces in Wales get reports from the public about children being smacked, typically this might be outside a school or supermarket. They say removing the defence won't change how they work but there may be more reports at the beginning when people first get to know about the law.

Social Services

Social services support families. A change in the law would help social workers give clearer advice about positive parenting.

Schools

Teachers see children daily and play a big part in keeping them safe. They already have a legal duty to report if a child says they've been smacked or they see a child being smacked. Social services then investigate.

Crown Prosecution Service and Her Majesty's Courts and Tribunal Service

If someone goes to court for assaulting a child then the defence of reasonable punishment will not be available. There could be more people reported to the police and brought to court if we remove the defence. The judge or magistrate makes a decision on the evidence and facts and will decide if someone is guilty.



Penalties and charges

We're not making a new law. We're changing an old one. So, the penalties and charges remain the same. There are already guidelines on what they should be.

Next steps

Thanks for reading this.

Please answer the questions below and tell us what you think.



Questions

? Do you think removing the 'defence of reasonable punishment' will help us achieve our aim to protect children's rights?

Yes

No


Why?


? Is there anything else you think we should put in place to support parents, carers and guardians?

Yes

No

Why?


 What types of actions or behaviours would you consider to be corporal/physical punishment?

 Do you agree with our understanding of the impact on public bodies and services arising by changing the law removing the defence of reasonable punishment?

Yes

No


Why?

 Do you think we need more guidance or training to support frontline professionals if we do this?

Yes

No

Why?

 How do you think this policy could be changed to have positive effects (or no negative effects) on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

? Is there anything you think we've left out?

Send in your responses by 2nd April 2018

E-mail talkparenting@gov.wales

or send it to:

Removal of Defence of Reasonable Punishment Consultation
Children and Families Division
Welsh Government
Cathays Park, Cardiff, CF10 3NQ

