

Ending Physical Punishment

Briefing Note

Physical punishment is now illegal in Wales. In January 2020 the Senedd passed the Welsh Government's Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 ("the Act"). The overarching aim was to help protect children's rights and give all children in Wales the best start in life.

The Act received Royal Assent on 20 March 2020 and came into force on 21 March 2022.

The new law did not create a new offence, rather it removed a 160-year old legal defence which sent the message that it was acceptable for children to be physically punished by their parents or those with parental authority. Over the years legislation had limited the circumstances where the defence could be used and limited the settings where children could be physically punished. Physical punishment had already been outlawed in schools, children's

homes, local authority foster care homes and childcare settings. It is now also illegal in the home and in unregulated settings.

Physical punishment is defined as any battery of a child carried out as punishment. While smacking is what usually comes to mind, physical punishment can take many forms including hitting, slapping and shaking. What was seen as okay 30 years ago is less so now. Parents and guardians of young children are less likely to be supportive of physical punishment.

The United Nations Convention on the Rights of the Child (UNCRC) is the basis for the Welsh Government's policy on children. Prohibiting the physical punishment of children is in accordance with article 19 of the UNCRC – the right to protection from all forms of violence. Wales has joined over 60 nations across the globe who have already outlawed physical punishment towards a child.

The new law has:

- Removed the defence of reasonable punishment. This means that no one can physically punish children in Wales, including in the home.
- Given children the same legal protection from assault as adults.
- Removed a legal loophole, meaning that the defence of reasonable punishment can no longer be used in unregulated settings. These unregulated settings include some places of learning, worship, play or leisure, or other locations which aren't regulated in the same way as schools or childcare settings for example.
- Brought clarity, making it easier for children, parents, professionals and the public to understand the law. This will improve the ability of professionals working with families to protect children by eliminating the current potential for confusion over what is an acceptable level of physical punishment. It will also enable professionals to provide clear, unambiguous advice to parents and carers that any level of physical punishment is illegal in Wales.
- Helped protect children's rights and sends a clear signal that physically punishing children is not tolerated in Wales.

For more information on ending physical punishment in Wales visit: gov.wales/EndPhysicalPunishment or contact: EndPhysicalPunishment@gov.wales

For positive parenting tips and information go to *Parenting. Give it time:* gov.wales/giveittime

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The new law does not:

- Create a new offence, it has simply removed the defence of reasonable punishment.
- Stop parents disciplining their children - there is a big difference between discipline and physical punishment. Parents can use alternatives to physical punishment, as a means of maintaining discipline and addressing poor behaviour.
- Interfere with a parent's ability to parent - parents can of course physically intervene to keep a child safe from harm or help with day-to-day activities such as dressing or hygiene and cleanliness.



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The available evidence, such as a review by the Public Policy Institute for Wales (now the Wales Centre for Public Policy), supports the view that legislation to prohibit physical punishment can contribute to changes in both the attitudes towards, and the use of, physical punishment if accompanied by sustained information campaigns and support for parents. They also concluded that the majority of researchers in the field make the judgement that all physical punishment under all conditions is potentially harmful to children.

Welsh Government's aim in making physical punishment illegal is to help protect children and their rights, but it acknowledges that by removing the defence, a small number of parents may be charged with, or prosecuted for, a criminal offence in circumstances where that would not have happened previously.

The Welsh Government are supporting parents, through providing advice, support and guidance and will continue to raise awareness of the law change; the intention is not to draw people into the criminal justice system but encourage more and more people to stop using physical punishment. £2.4 million, between 2022-23 and 2024-25 will be available to Welsh local authorities to fund this, in addition to just



under £500,000 preparatory funding allocated the financial year 2021-22. It will mean that in cases where the police believe it is appropriate to offer an out-of-court disposal there will be an option of offering support to help avoid re-offending. This will, however, depend on individual circumstances.

The Wales Safeguarding Procedures has not changed as a result of the new law, however, new practice guidance has been drafted to sit alongside the existing Safeguarding Procedures.

The new law is a part of a much wider package of support for children and their parents. The Welsh Government's long-running *Parenting. Give it time* campaign offers positive parenting practical hints, tips and expert advice to encourage good behaviour from children and young people, and alternatives to physical punishment. Targeted support through programmes such as Flying Start and Families First also offer parenting support and advice alongside universal services provided by, for example, midwives, health visitors, GPs, local authorities and third sector organisations.

Guided by the evidence, the Welsh Government expects incidents of physical punishment to reduce over time. The change in the law alongside awareness raising and ongoing support for parents will all contribute to this. Children and their rights are at the forefront of this law because physical punishment should not be an accepted part of any childhood.

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