



# children, physical punishment and the law

A GUIDE FOR PARENTS IN SCOTLAND



SCOTTISH EXECUTIVE

## changes in the law

This leaflet contains important information for parents about recent changes in the law. The leaflet is being widely distributed across Scotland and copies are being provided through health centres, libraries and nurseries and to parents of all primary school children.

From 27 October 2003, it will be illegal to punish children by:

- **Shaking**
- **Hitting on the head**
- **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**

# why has the new legislation been introduced?

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.



# how were the changes arrived at?

The new legislation was informed by the results of a detailed consultation exercise<sup>1</sup> followed up by additional research carried out with groups of ordinary parents from across Scotland.<sup>2</sup>

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.



<sup>1</sup> *The Physical Punishment of Children in Scotland: A Consultation* (Scottish Executive, 2000)

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

# has smacking been banned altogether?

**Smacking is not completely prohibited. Whether a physical punishment is legal or not will depend on the factors detailed previously under 'changes in the law'. However, 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**

'Smacking' is only one word used by parents in Scotland for physical punishment. Others include spanking, hitting and slapping. This leaflet applies to all forms of physical punishment.

# don't children need to be taught discipline?

Yes. Discipline helps children learn right from wrong and to understand how to get along with people around them. But discipline should not be about instilling obedience or inflicting physical punishment.

Discipline is about showing children how to behave in ways which are acceptable to their parents and to others.

By explaining how *and* why they should behave in different situations, and by praising and rewarding them when they behave well, parents will encourage their self-discipline and self-esteem. This approach might initially take a little work and time, but it is more effective than criticism and punishment and it makes life at home less stressful for everyone.



For more on discipline, see the Barnardo's booklet **'getting positive about discipline'**. Details under useful contacts at the back of this booklet.

# discipline and young children

**Young children can be too inquisitive for their own good and keeping them safe is hard work.**

But babies and young toddlers are too young to understand why they are being smacked, so that's not the answer.

Research showed that toddlers and pre-school children were the most likely group to be smacked. When asked by researchers, parents said that when they do smack their children it is usually in moments of particular stress and that afterwards they feel guilty about it.

Almost all respondents to the consultation agreed that, whether or not smacking was ever justified, it is better to bring up children using non-physical discipline methods. Alternative approaches include giving the child a task or chore to do or taking away a treat.



For tips on keeping babies and toddlers safe from harm, see the Save The Children booklet, **'We Can Work It Out'**. Details under useful contacts at the back of this booklet.





## and for older children

**As children get older, they begin to learn how to live independently, without the constant support of their parents. However, they do still need help and guidance.**

Parents told our researchers that, with older children, negotiation is essential. Teenagers will never agree with their parents about everything but they need to know that their views are listened to and respected. Arguments are always best avoided and non-physical punishments are far more likely to work. Options include grounding, withdrawing privileges such as TV or computer games, or withholding pocket money. These are seen by parents to be a far more effective method of discipline with older children.

For more on coping with older children and teenagers, the BBC's parenting website has lots of information and advice. Details under useful contacts at the back of this booklet.

## useful contacts

There are organisations who offer help and advice for families. You may find the following contact details useful:

### Cry-sis Helpline

Providing help to parents with babies and young children up to 2 years old. The answering service **020 7404 5011** will give you the telephone numbers of volunteer contacts in your area who once experienced problems like you. **The Cry-sis Helpline is open 7 days a week between 9am and 10pm.**

### One Parent Families Scotland: Lone Parent Helpline

Providing confidential information on any lone parent issue. To talk to an advisor, call free on **0800 018 5026** (landlines only) at the following times: **Tuesdays and Fridays 11am - 1pm and 2pm - 3pm; Thursdays 12.30pm - 3.30pm.**

### Parentline Scotland (0808 800 2222)

A free, confidential telephone helpline for parents and anyone caring for a child in Scotland to call about any problem, however big or small. ParentLine Scotland is a service provided by Children 1<sup>st</sup>. **Lines are open Monday, Wednesday, Friday 9am - 5pm and Tuesday and Thursday 9am - 9pm. ([www.parentlinescotland.org.uk](http://www.parentlinescotland.org.uk))**

### National Family and Parenting Institute

An independent charity working to support parents in bringing up their children. NFPI produces a range of helpful publications for parents. You can download them from the website ([www.e-parents.org](http://www.e-parents.org)) or order by phone **020 7424 3460**.

### The BBC

A parenting website ([www.bbc.co.uk/parenting](http://www.bbc.co.uk/parenting)) with advice, support and helpful tips for parents of children of all ages.

### Save The Children

Save The Children produces a booklet for parents, **We Can Work it Out: Parenting with Confidence**. You can download this from their website ([www.savethechildren.org.uk/onlinepubs/workitout/index.html](http://www.savethechildren.org.uk/onlinepubs/workitout/index.html)) or order by phone 020 7716 2268.

### Barnardo's

Barnardo's produces a booklet **getting positive about discipline – a guide for today's parents**. It costs £1 and is available from **Barnardo's Childcare Publications, Barnardo's Trading Estate, Paycocke Road, Basildon, Essex SS14 3DR**. Tel. no. 01268 520224 or online at [www.barnardos.org.uk/resources](http://www.barnardos.org.uk/resources)

### Children 1<sup>st</sup>

Children 1<sup>st</sup> produces a booklet **Tips To Beat Stress**. Get a copy by phoning 0131 446 2300 or go the website [www.children1st.org.uk](http://www.children1st.org.uk)



Copies of this document are also available, on request, in other formats by contacting: 0131 244 3581.

It can also be viewed on the Scottish Executive website at [www.scotland.gov.uk](http://www.scotland.gov.uk)

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