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# The Physical Punishment of Children in Scotland: A Consultation

The Scottish Executive Justice Department  
February 2000

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# The Physical Punishment of Children in Scotland: A Consultation

## PART 1: INTRODUCTION AND OVERVIEW

1.1 One of the most difficult skills for parents to exercise is to apply consistent and effective guidance to their children, to enable them to develop an understanding of what is acceptable and appropriate behaviour and grow up into responsible and social adults. On the one hand, applying appropriate discipline - in the sense of responding consistently to a child's behaviour, and setting clear boundaries - is part of bringing up children well. A failure to provide guidance and set boundaries is in itself a form of neglect that can be very damaging to a child. On the other hand, discipline that is harsh can be damaging to a child both physically and emotionally.

1.2 Parents use many methods to guide and discipline their children, including showing and explaining what is right or wrong; physically restraining a child from harming themselves or others; encouraging and rewarding what is felt to be good behaviour; and punishing what is felt to be bad or dangerous behaviour.

1.3 The law recognises that there may be occasions when moderate and reasonable physical punishment of a child by a parent may be appropriate. Currently, where a parent - or somebody acting on their behalf - physically punishes a child and is charged with assault, they may claim that it was 'reasonable chastisement'. Unless the prosecution proves that the punishment went beyond reasonable chastisement, then the accused person cannot be convicted of the assault.

1.4 The concept of 'reasonable chastisement' has its origins in Victorian times. An English case taken to the European Court of Human Rights has highlighted that the law there needs modernising to make sure that children are protected from harsh physical punishment. The European Court ruled that, because of the way in which the concept of 'reasonable chastisement' was applied, the law in the UK had failed to protect a boy from 'inhuman or degrading treatment' in the form of severe beatings, in contravention of the European Convention on Human Rights. As a result of this ruling, we in Scotland must also consider the need to clarify or change Scots law in a way that takes account of the Court's judgment.

1.5 Social attitudes change over time, and with them the public's attitude to corporal punishment. In 1992 the Scottish Law Commission's Report on Family Law recommended that there should be no defence in cases of corporal punishment using a stick, belt or other object (see paras 2.8 — 2.12). This recommendation was rejected during the passage of the Children (Scotland) Act 1995 and remains unimplemented. More recently, there has been strong public support for the abolition of corporal punishment by childminders, day-care providers and non-publicly funded pre-school education.

## Devolution

1.6 Criminal law, family law and education law are matters devolved to the Scottish Parliament under the Scotland Act 1998. Any change to the law on corporal punishment in Scotland will therefore be a matter for the Scottish Parliament.

1.7 A similar consultation paper on the law in England and Wales was issued in England by the Department of Health on 18 Jan 2000 [2](#). A parallel consultation will be undertaken in Wales by the National Assembly for Wales. It will be for the United Kingdom Government and Parliament at Westminster and the National Assembly for Wales to change the law for England and Wales. In Northern Ireland a separate consultation exercise will be led by the Department of Health, Social Security and Public Safety.

## The need for change

1.8 The UK Government and the Scottish Executive fully accept the need for clarification and change. The harmful and degrading treatment of children can never be justified. The Scottish Executive is inclined to the view that the right way forward is *not* to make unlawful all smacking and other forms of physical rebuke. Whilst other forms of exercising discipline are available and usually preferable, many parents find on occasion that a mild physical rebuke has a place. However, there is a common sense distinction to be made between the sort of mild physical rebuke which is normal in families, and which most loving parents consider acceptable, and the beating of children. The law needs to be clarified to make sure that it properly reflects this common sense distinction.

1.9 There has, however, been strong public support for the abolition of corporal punishment by childminders, day-care providers and non-publicly funded pre-school education. These settings could not be covered by the *Standards in Scotland's Schools etc. Bill* as they do not fall within the scope of education law. This is an area which we feel should be covered in any future legislation on corporal punishment.

1.10 The purpose of this consultation paper is to explore how we can modernise the law relating to the physical punishment of children, so that it better protects children from harm. The aim of the consultation is to address two specific issues.

First, within the context of a modern family policy, in a responsible society, where should we draw the line as to what physical punishment of children is acceptable within the family setting?

Second, how do we achieve that position in law?

1.11 The paper sets the issue of physical punishment in the context of the Scottish Executive's wider policy aims in support of families, and summarises current prevailing attitudes towards the issue. It outlines the existing law; explains in more detail why change is needed; sets out our proposed way forward and options for change; and invites your views.

## How to respond to this consultation paper

Comments on the proposals discussed in this paper may be sent by 21 April 2000, to:

Perry Clarke  
Scottish Executive Justice Department  
Civil Law Division  
Spur V1, Saughton House  
Broomhouse Drive  
EDINBURGH  
EH11 3XD

Tel: 0131 244 2783  
Fax: 0131 244 2195

E-mail responses can be sent to — [civil.law.policy@scotland.gov.uk](mailto:civil.law.policy@scotland.gov.uk)

Please ensure that:

- Your reply to each question is clearly numbered to correspond with the numbering as set out in the summary of questions below;
- Your response is clearly marked with your name, address, and (if relevant) the organisation on whose behalf you are writing.
- If you are under 16, please say how old you are.

The Scottish Executive has a policy of publishing responses to consultation documents. If you wish your response to be treated as confidential, please let us know. Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

## Getting further copies

Further copies of this consultation paper can be obtained from Mary Kendall at the above address (0131 244 3581), or from The Stationery Office Bookshop, 71 Lothian Road, Edinburgh EH3 9AZ (0131 228 181)

This paper can also be found on the Scottish Executive's home page on the Internet, under "publications". The address is: <http://www.scotland.gov.uk/library2/doc11/ppcs-00.asp>

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# The Physical Punishment of Children in Scotland: A Consultation

## PART 2: BACKGROUND AND CONTEXT

2.1 The success of families in bringing up children will shape the future, not only of those individual children, but of our whole future society. However, being a parent, whatever the circumstances, can be hard work as well as tremendously rewarding. And today, many families feel under stress, often linked to family breakdown or social disadvantage.

2.2 The Scottish Executive recognises the importance of the family and its key influence on our society, and strengthening the family has been at the heart of much of our policy development. In 1999 we consulted on *Improving Scottish Family Law*, and in January 2000 we announced our proposed way forward in a number of areas. This will include better targeting of funds to voluntary organisations which provide support and mediation services to families in transition.

2.3 One of our main areas of concern is domestic violence and abuse. We intend to improve the protection available to members of a family who are at risk of domestic abuse. The coverage of matrimonial interdicts will be widened and improved. This will assist children at risk of domestic abuse primarily affecting a parent.

2.4 At the same time as protecting spouses and partners, we must ensure that children are protected from abuse of discipline by adults caring for them. There must be a clear line between reasonable physical chastisement and abuse. This paper seeks to set that line.

### Guiding and Disciplining Children

2.5 Our approach is to avoid heavy-handed intrusion into family life, but rather to put in place policies which are supportive of families, to support organisations which help and encourage parents in their often complex role and to help parents recognise that asking for help is all part of responsible parenting. This consultation paper continues within that approach.

2.6 Many parents and organisations working with children have effective methods of discipline that do not involve physical punishment. These might include, for example, keeping the child in, sending the child to his or her room, stopping the child doing something he or she likes (such as watching the

television), or withholding pocket money. Rewarding good behaviour with praise and, if appropriate, privileges is just as important as sanctioning bad behaviour. These methods are likely to be the most satisfactory and desirable way of resolving most conflict situations, for both parents and children. Children need to be helped to develop their own sense of right and wrong, to guide them as to how to behave when their parents are not present.

2.7 There may still be occasions, however, when parents consider it appropriate to discipline a child through physical punishment.

## **Scottish Law Commission 1992 recommendations**

2.8 The Scottish Law Commission [Report on Family Law 1992](#) considered corporal punishment of children.<sup>3</sup> They produced a thorough and solid analysis, based on responses to a consultation paper.<sup>4</sup>

2.9 They did not favour outright abolition of corporal punishment, which would "criminalise ordinary safe smacks of the type occasionally resorted to by many thousands of normal affectionate parents."<sup>5</sup> Nor did they favour making corporal punishment unlawful for civil law purposes, but not for criminal law purposes. This would mean that a parent could be sued by a child for damages, but could not be prosecuted unless the conduct fell outside what is permitted by the present law.

2.10 Their tentative conclusions pointed towards smacking being acceptable while canings, beltings and beating with implements would not. In this sensitive area involving family life, we consider it very important that the law commands public acceptance. Social surveys monitoring public attitudes are one barometer of public mood, and a public opinion survey was therefore conducted for the Scottish Law Commission in Scotland during 1991. The broad result was that between 68% and 83% felt that smacking children should be lawful, while 85% to 94% felt that beating with an implement should be unlawful.<sup>6</sup> The results are shown in more detail in [Annex A](#). These results are broadly in line with a more recent Office of National Statistics survey in England quoted in [Annex B](#).

2.11 The Scottish Law Commission Recommendation was therefore:

(a) In any proceedings (whether criminal or civil) against a person for striking a child, it should not be a defence that the person struck the child in the purported exercise of any parental right if he or she struck the child

(i) with a stick, belt or other object; or

(ii) in such a way as to cause, or to risk causing, injury; or

(iii) in such a way as to cause, or risk causing, pain or discomfort lasting more than a very short time.

(b) a person who has care or control of a child but who does not have parental responsibilities and rights in relation to the child should have no greater right than a parent has to administer corporal punishment to the child.

(c) Section 12(1) of the Children and Young Person (Scotland) Act 1937 should be amended by deleting the references to assault, which is adequately covered in the common law. [7](#)

(d) Section 12(7) of the Children and Young Person (Scotland) Act 1937 should be repealed. [8](#)

2.12 This recommendation was not accepted by the then Government and no such provision was included in the Bill which eventually became the Children (Scotland) Act 1995. During the passage of the Bill an amendment along these lines was tabled but was defeated. [9](#) There were fears that the introduction of a distinction between smacking and hitting with an implement would devalue the protection available to a child who was smacked.

## **Should Physical Punishment be made Unlawful?**

2.13 In eight European countries [10](#) there are explicit bans on physical punishment by parents and all other carers. A number of individuals and UK organisations representing children's rights and interests have argued that the most appropriate, and indeed the easiest, way to protect children from harm is to follow the example set in these countries. As a first step, they are proposing that justification of an assault on a child on a basis of 'reasonable chastisement' should be removed, thereby putting children in exactly the same position as adults in respect of the law on assault. A second step would be to introduce a law (which need not have criminal sanctions attached) which would specifically ban physical punishment of children by their parents.

2.14 These organisations argue that in cases of assault between adults, cases of a minor nature are not taken forward by the Crown Office and the procurators fiscal. Likewise with children, they believe, the removal of a basis of 'reasonable chastisement' would not result in a light smack by a parent leading to prosecution. They argue that the greater possibility of prosecution for assault, or even the existence of a law prohibiting the physical punishment of children, would not lead to an increase in cases of assault, but would signal the unacceptability of physical punishment. This would help to influence social attitudes, and encourage the use of alternatives to physical punishment.

2.15 The Scottish Executive is inclined to the view that it would be unacceptable to outlaw all physical punishment of a child by a parent. We do not believe the majority of parents in Scotland would support such measures. The Scottish Law Commission did not recommend such a step. Nevertheless, we would be grateful for specific views on this matter in response to **Question 1** below.

2.16 In Part 5 of this paper, which sets out our proposed way forward and options for change, the emphasis is on clarifying and if necessary restricting the right of parents and people with lawful control of the child to administer corporal punishment. We must do this to protect children.

**Question 1. Do you agree with the Scottish Executive that parents should continue to be allowed to use reasonable physical punishment for their children?**

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## 3. THE LAW IN SCOTLAND

### General

#### Common Law

3.1 The law in Scotland recognises a parent's right to administer moderate corporal punishment to his or her child. Such punishment, if within the bounds of what a court considers reasonable, will not expose the parent to liability to damages for assault or to a criminal conviction for assault. Certain other people, such as teachers, have a similar right of reasonable chastisement at common law, but this has been restricted for teachers by the Education (Scotland) Act 1980.

### Criminal Law

#### The Children and Young Persons (Scotland) Act 1937

3.2 The Children and Young Persons (Scotland) Act 1937 ('the 1937 Act') provides a statutory basis for the protection of children from cruelty but also recognises the right of any parent, teacher, or other person having the lawful control or charge of a child or young person to administer punishment to the child. The exercise of this right, which lasts until the child is 16, must be in accordance with the welfare principle in Section 1 of the Children (Scotland) Act 1995 - that parental responsibilities must be exercised in the interests of the child.

3.3 Section 12 of the 1937 Act is set out in [Annex C](#). Excessive physical ill-treatment of a child is grounds for criminal proceedings under Section 12, as well as for the common law offence of assault. It will also constitute grounds for compulsory measures of supervision under section 52 of the Children (Scotland) Act 1995.

#### Deciding factors — Reasonable chastisement

3.4 In deciding if any punishment is excessive courts look at all the circumstances of the case including the age, sex and any known disabilities or weaknesses of the child. Factors such as the nature and context of the punishment, the manner and method of its execution, its duration and its physical and mental effects are all to be taken into account. The force must be moderate, and not inspired by vindictiveness. In order to obtain a conviction the court has to be satisfied beyond reasonable doubt that the accused has acted with the necessary evil intent. 11

3.5 In the case of someone with parental responsibilities and rights or with lawful control of the child, the prosecution must prove that the punishment went beyond "reasonable chastisement." Scottish case law recognises that no crime is committed provided the force used is moderate; it is irrelevant that the parent lost his or her temper at the time of the chastisement. Loss of control or temper will not prevent a conviction if the intention to injure, as opposed to discipline, the child can be inferred from the severity of the parent's conduct.

3.6 The standard of proof in criminal courts is "beyond reasonable doubt". As in England and Wales, the burden falls on the prosecution to establish that the conduct was of a degree or kind which in itself was beyond what is permissible.

## Penalties

3.7 If a case is prosecuted as assault under the common law then the maximum penalty depends on the court in which the case is heard. In the Sheriff Court the maximum is 3 years' imprisonment (6 months if heard by a sheriff without a jury and the accused has a previous conviction for violence, or 3 months where there is no such previous conviction). In the High Court it is life imprisonment.

3.8 The maximum penalty on conviction under the Children and Young Persons (Scotland) Act 1937 is a fine or 10 years' imprisonment.

## **Civil Law**

### Parental responsibilities and rights

3.9 Under Section 1(1) of the Children (Scotland) Act 1995 a parent has certain responsibilities in relation to his or her child. These include the responsibility -

(a) to safeguard and promote the child's health, development and welfare, and

(b) to provide direction and guidance to the child in a manner appropriate to the stage of development of the child.

Parental responsibilities apply only in so far as is practicable and in the interests of the child, and until the child reaches the age of 16.

3.10 Section 2 of the Act sets out a parent's rights, including the right "to control, direct or guide ... the child's upbringing". Parental rights exist only to enable a parent to fulfil his or her parental responsibilities. The Act (in Section 1(3)) also grants to a child, or any person acting on his behalf, title to sue in any proceedings as respects those responsibilities. Under Section 3(5) of the 1995 Act a person with parental responsibilities may arrange for some or all of them to be fulfilled or exercised on his or her behalf.

### Who has parental responsibilities and rights?

3.11 Part I of the Children (Scotland) Act 1995 sets out who has parental responsibilities and rights.<sup>12</sup> However a court can grant or take parental responsibilities and rights away from anyone, if it is in the best interests of the child. The people who normally have them include:

- The mother of the child
- The father, if he is or has been married to the mother at any time since the child's conception
- An unmarried father who has made a Parental Responsibilities and Parental Rights Agreement with the mother which has been registered <sup>13</sup>
- Anyone who has been given them by a court
- In the event of a parent's death, anyone whom he or she appointed in writing as the child's guardian
- Adoptive parents.

### Physical punishment

3.12 Scottish civil law provides that a person whose conduct causes harm to others may be required to pay damages to the person they have harmed. Such claims for damages are actionable in the civil courts. The general term used to describe this area of law is *delict*. The harm inflicted on a child as a result of physical punishment may be such a delict. Unlike the criminal law, intent does not need to be proven in such a claim. Therefore, an action that was reckless or negligent could result in a successful claim for damages. However, as noted above, a parent has a right to administer reasonable corporal punishment to his or her child and could claim that the punishment was reasonable. The burden of proof in respect of the reasonableness of the punishment lies on the defender and the standard of proof is "on the balance of

probabilities" rather than the stricter proof in criminal cases of "beyond reasonable doubt".

## **The Law as it affects children in other, non-domestic settings**

3.13 Where children are looked after by those other than their own parents there are clear legal restrictions in place in respect of physical punishment.

### The Education (Scotland) Act 1980

3.14 Section 48A(1) [abolition of corporal punishment] provides:

"Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such."

### Local authorities

3.15 Where local authorities have direct responsibility for looking after children there are limitations on the use of physical punishment.

3.16 No child can be placed with a foster parent unless that person has entered into a written agreement with the local authority which includes agreeing not to administer corporal punishment to the child.[14](#)

3.17 For children who are placed in residential establishments, the use of corporal punishment is forbidden.[15](#)

### State Schools and other publicly funded educational provision

3.18 Corporal punishment is prohibited in state schools and for publicly funded pupils in independent schools in Scotland under Section 48A of the Education (Scotland) Act 1980.[16](#) The provisions in Section 294 of the Education Act 1993 (that where corporal punishment is administered, the punishment should not be inhuman or degrading) also extend to Scotland.

### Provision for pre-schoolers

3.19 Where pre-school provision is delivered in local authority nursery schools or classes, Section 48A (1) of the Education (Scotland) Act 1980 applies (see para 3.14). Local authorities can also commission pre-school education from private and voluntary sector providers. The Scottish Executive Education Department requires, as a condition of receipt of grant for pre-school education, that these centres give no corporal punishment.

3.20 Paragraph 28 of Annex A of the Scottish Executive's grant offer letter states: "pre-school centres must ensure that no child for whom grant-funded pre-school education is provided is given corporal punishment by any person employed by, or connected with, the centre."

### Youth Workers

3.21 Youth workers can take youngsters to camp or on trips. They are not specifically barred from using corporal punishment when they have lawful control or charge of the child or young person. Many will ask parents to give them these rights formally when arranging the trip.

### Childminders and other childcare providers

3.22 Childminders and other childcare providers are not prevented by law from using corporal punishment on children they look after. Such carers who have lawful control or charge of the child would be covered by the provision in Section 12 of the Children and Young Persons (Scotland) Act 1937. It is a matter for the parents to decide whether physical punishment is acceptable to them and to come to agreement with the carer as to when this is allowed.

### Babysitters and other members of the family

3.23 Parents have a duty to ensure that their child is looked after. Parents can lawfully arrange for others, such as family members or other adults, to look after their child temporarily. Anyone with lawful control or charge of the child would be covered by the provision in Section 12 of the Children and Young Persons (Scotland) Act 1937. It is a matter for the parent to decide whether physical punishment is acceptable and to agree with the temporary carer as to when this is allowed.

## **International Conventions**

### European Convention on Human Rights

3.24 The UK has been bound by the European Convention on Human Rights (ECHR) since 1953. It has not until recently formed part of domestic law, which the courts in Scotland and England can apply directly. However, under the Scotland Act 1998 all the matters devolved to the Scottish Parliament and the Scottish Executive must be dealt with in accordance with the ECHR. Any contraventions can be dealt with in the Scottish courts. When the Human Rights Act 1998 comes into effect, the ECHR will be able to be applied in all courts in the United Kingdom.

Article 3 provides:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 8 provides:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the 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."

### United Nations Convention on the Rights of the Child

3.25 This Convention binds the UK, though its provisions do not have the force of law in Scotland and individuals do not have a remedy in the courts. Article 19(1) provides that states must:

"take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent maltreatment or exploitation including sexual abuse, while in the care of parent (s), guardian(s) or any other person who has care of the child."

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# The Physical Punishment of Children in Scotland: A Consultation

## PART 4: THE NEED FOR CHANGE

4.1 The need for a change in the law arises from changes in social attitudes since the 1930's and with them the public's attitude to corporal punishment. In 1992 the Scottish Law Commission's Report on Family Law [17](#) recommended that there should be no defence in cases of corporal punishment using a stick, belt or other object, and that only those with parental responsibilities and rights should be able to administer corporal punishment. This recommendation was rejected during the passage of the Children (Scotland) Act 1995 and remains unimplemented.

4.2 In addition, the UK Government undertook to examine the law in the UK following an English case heard by the European Court of Human Rights. In the circumstances of that case, the Court ruled that the law in the UK had failed to protect a boy, who had suffered repeated and severe beatings with a cane, from "inhuman or degrading treatment", in contravention of Article 3 of the European Convention on Human Rights. The case is referred to as [A. v the United Kingdom](#). [18](#)

### A v the United Kingdom

4.3 The case arose in England after his brother reported that A. had been repeatedly beaten with a garden cane by their stepfather-to-be. A. was only 9 years old, and some of the strokes were inflicted directly on the bare skin, causing significant bruising. The man was subsequently charged with assault occasioning actual bodily harm contrary to Section 47 of the Offences Against the Person Act 1861. This is similar to the law in Scotland. He was tried in February 1994 and raised a defence of reasonable chastisement under English common law. A jury found him not guilty.

4.4 A. then made an application to the European Commission of Human Rights which found, and the UK Government accepted, that there had been a violation of A.'s rights under Article 3. There was subsequently a full hearing before the Court. In a judgment delivered in September 1998, the Court held that the beating suffered by the boy reached the level of severity prohibited by Article 3 of the Convention, which states that:

"No one shall be subjected to torture or to inhuman or degrading treatment".

4.5 The Court said that, though the UK was not responsible for the actions of the stepfather-to-be, because of the way in which the defence of 'reasonable chastisement' had been applied, the law in the UK had failed to protect A. from the severe beatings which he had received. The Court ruled that States are required to take measures to protect children against such treatment. It said:

"The Court considers that the obligation on the High Contracting Parties under Article 1 of the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, taken together with Article 3, requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment or punishment, including such ill-treatment administered by private individuals ... Children and other vulnerable individuals, in particular, are entitled to State protection, in the form of effective deterrence, against such serious breaches of personal integrity."

4.6 The UK conceded that, in this case, it was in breach of Article 3 of the Convention. The Court's decision was based on the facts of the case before it. No general statement was made about the physical punishment of children, although A.'s legal representative had invited the Court to make such a statement.

4.7 If a similar case, involving inhuman or degrading treatment in breach of Article 3, had been tried in Scotland it would have been open to the procurator fiscal to invite the court to rule that there could be no finding that the chastisement was reasonable. It would not be possible for 'inhuman or degrading treatment' to be held to be 'reasonable chastisement'.

4.8 However it may not always be apparent exactly where the boundary between the two lies. Therefore, we must make sure that Scots law does protect children from 'inhuman or degrading treatment'. This paper seeks views on how to make the current law in Scotland more precise so as to prevent criticism that Scottish law may operate in an arbitrary and subjective manner and so fail to meet our ECHR obligations.

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# The Physical Punishment of Children in Scotland: A Consultation

## PART 5: our PROPOSALS FOR CHANGE AND FURTHER OPTIONS

### OUR PROPOSALS

Set out the definition of reasonable chastisement on a statutory basis

5.1 In order to meet the criticism that the current law fails to protect children from harsh or violent physical punishment, we propose to define in legislation what is meant by 'reasonable chastisement', or at least to outline the factors which should be taken into account by a Court when considering whether physical punishment has been moderate and reasonable.

5.2 As a minimum, and in response to the European Court's ruling, we are proposing that:

**Proposal 1: The law should make clear that physical punishment which constitutes 'inhuman and degrading treatment' can never be justified as 'reasonable chastisement'.**

5.3 The Court stated that:

"ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex, age and state of health of the victim." [19](#)

5.4 We are therefore further proposing that

**Proposal 2: The law should explicitly set out that, in considering whether or not the physical punishment of a child constitutes 'reasonable chastisement', a Court should always have regard to:**

**a. the nature and context of the treatment;**

**b. its duration and frequency;**

**c. its physical and mental effects; and, in some instances,**

**d. the sex, age and state of health of the victim.**

**Question 2. Do you agree with the Scottish Executive proposals set out above?**

### Further options for change

5.5 The proposals outlined at 5.2 and 5.4 above set out what the Scottish Executive considers to be the minimum steps needed to clarify the law. We set out a number of further options for change below. If implemented, these would be *in addition* to implementation of the proposals above. We would welcome your comments on these options, to help us frame the law so that it best reflects a modern society's view of what constitutes the 'reasonable' physical punishment of children.

### **Restrict the definition of 'reasonable chastisement'**

5.6 It would be possible to add to, or elaborate upon the relevant factors outlined at para. 5.4 in setting out the factors which a Court must consider in determining whether physical punishment constitutes 'reasonable chastisement'. For example, additional factors might include

- a. the reasons given for the punishment,
- b. how soon after the event it was given,
- c. the persons involved,
- d. the vulnerability of the child.

**Question 3 What, if any, factors should the law require a Court to consider when determining whether the physical punishment of a child constitutes 'reasonable chastisement', over and above those factors set out in para. 5.4?**

5.7 It would also be possible for the law to state that some forms of punishment could *never* be deemed 'reasonable'. This might exclude as 'reasonable' any physical punishment administered to the head (so as to ensure that there could be no risk of damage to the brain or sensory organs), or shaking a child, which can cause brain damage. Drawing on the Scottish Law Commission recommendation, it might also exclude entirely the use of implements (e.g. canes, belts, slippers) in the physical punishment of a

child, or the physical punishment of very young children e.g. under the age of one or two.

5.8 However, listing certain kinds of punishment as never being acceptable could be taken to imply that other kinds are acceptable. For example, someone might assume that administering electric shocks was lawful simply because it was not in a list of forbidden punishments. There are many kinds of punishment which could cause physical injury (e.g. blows to the stomach), and not all can be listed. There is a risk that to have a list at all might mislead people. [20](#)

5.9 We would welcome your views on whether there are any forms of physical punishment which should *never* be deemed ‘reasonable’ under the law.

**Question 4 Are there any forms of physical punishment which should never be capable of being considered as ‘reasonable’? Specifically, should the law state that any of the following can never be considered as reasonable:**

- a. Blows to the head (risking injuries to the brain, eyes and ears)?**
- b. Shaking children? (risking injuries to the brain)?**
- c. Using implements (e.g. canes, slippers, belts)?**
- d. The physical punishment of very young children (and if so, of what age)?**

**Clarification or restriction of *who* may administer ‘reasonable chastisement’**

5.10 This option considers the issue of who should be able to administer reasonable chastisement in future. It asks whether this should be only those with parental responsibilities and rights (which would significantly restrict its application); to those acting with parents’ explicit permission; or to all those with lawful control of the child.

5.11 Currently, reasonable chastisement may be administered not only by parents [21](#) but also by others with lawful charge of the children, except in those settings where the physical punishment of children has been specifically outlawed (see paras. 3.13 — 3.23). There is an *implied* delegation, from parents to those in charge of their children, of the parents’ right to apply moderate and reasonable physical punishment. If a

- relative (e.g. grandparents or stepparents)
- neighbour

- babysitter

were looking after a child, for example, they would be able to claim that they had given reasonable chastisement even if a parent had not explicitly authorised them to smack a naughty child. In the English case of A. v the United Kingdom, a stepfather-to-be was able to do this.

5.12 What this option raises is:

- Whether physical punishment should be given *only* by those with parental responsibilities and rights (this was the recommendation of the Scottish Law Commission — see para 2.104 in [Annex A](#)).
- Or should it be available, as now, to all those with lawful charge of a child except in those settings where physical punishment has been outlawed? If so, should it be under an
  - *implied* delegation from parents (see para. 5.11 above) as now, or
  - *explicit* delegation, i.e. parents must have given their explicit permission that a specific person may physically punish their child?

**Question 5: Who should be able to administer ‘reasonable chastisement’? Should it be:**

**a) Only those with parental responsibilities and rights under the Children (Scotland) Act 1995)?**

**b) As now, all those acting on behalf of parents in looking after children (except in settings where physical punishment has been outlawed)?**

**c) All those acting on behalf of parents, but only if they have been given explicit permission to physically punish the child?**

Childminders and non-publicly funded pre-school centres

5.13 In the consultation preceding the *Standards in Scotland’s Schools etc. Bill*, many respondents felt that there should be a statutory ban on corporal punishment in all early years settings, not just publicly funded pre-school centres. A ban on corporal punishment in childcare centres, by childminders and in non-publicly funded pre-school centres could not be included in the Bill as corporal punishment in these circumstances does not fall within education law. If, however, it is decided as a result of **this** consultation that corporal punishment should be statutorily banned in these early years settings, then a suitable legislative vehicle would be identified for that purpose.

**Question 6: Should there be a ban on corporal punishment in childcare centres, by childminders and in non-publicly funded pre-school centres?**

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## PART 6 : SUMMARY OF QUESTIONS FOR CONSULTATION

**Question 1: Do you agree with the Scottish Executive that parents should continue to be allowed to use reasonable physical punishment for their children?**

**Question 2: Do you agree with the Scottish Executive proposals set out below?**

**Proposal 1: The law should make clear that physical punishment which constitutes ‘inhuman and degrading treatment’ can never be justified as ‘reasonable chastisement’.**

**Proposal 2: The law should explicitly set out that, in considering whether or not the physical punishment of a child constitutes ‘reasonable chastisement’, a Court should always have regard to:**

- a. The nature and context of the treatment;**
- b. Its duration;**
- c. Its physical and mental effects; and, in some instances,**
- d. The sex, age and state of health of the victim.**

**Question 3: What, if any, factors should the law require a Court to consider when determining whether the physical punishment of a child constitutes ‘reasonable chastisement’, over and above those factors set out in para. 5.4?**

**Question 4: Are there any forms of physical punishment which should never be capable of being considered as ‘reasonable’? Specifically, should the law state that any of the following can never be considered as reasonable:**

- a. Blows to the head (risking injuries to the brain, eyes and ears)?**
- b. Shaking children? (risking injuries to the brain)?**

**c. Using implements (e.g. canes, slippers, belts)?**

**d. The physical punishment of very young children (and if so, of what age)?**

**Question 5: Who should be able to administer ‘reasonable chastisement’? Should it be:**

**a. Only those with parental responsibilities and rights under the Children (Scotland) Act 1995)?**

**b. As now, all those acting on behalf of parents in looking after children (except in settings where physical punishment has been outlawed)?**

**c. All those acting on behalf of parents, but only if they have been given explicit permission to physically punish the child?**

**Question 6: Should there be a ban on corporal punishment in childcare centres, by childminders and in non-publicly funded pre-school centres?**

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## Footnotes

<sup>1</sup> Except in all schools, centres providing grant funded pre-school education, children's homes and foster care (other than private fostering). Physical punishment is not permitted under the law in any of these settings. The Standards in Scotland's Schools etc. Bill proposes the abolition of physical punishment in independent schools and all publicly funded pre-school centres (and see para 3.19).

<sup>2</sup> *Protecting Children, Supporting Parents: A Consultation Document on the Physical Punishment of Children*. This is available from Joan Wild, Department of Health, Room 122, Wellington House, 133-155 Waterloo Road, London SE1 8UG. It is also available on the Internet at [www.doh.gov.uk/scg/pcspcon.htm](http://www.doh.gov.uk/scg/pcspcon.htm)

<sup>3</sup> Scottish Law Commission *Report on Family Law* (Scot Law Com No 135, May 1992) in paragraphs 2.67 to 2.105. Parts II to VI of the Report formed the basis of the Children (Scotland) Act 1995. [The remaining parts are available on the Scottish Executive website](#)

<sup>4</sup> Scottish Law Commission Discussion Paper No 88 *Parental Responsibilities and Rights, Guardianship and the administration of Children's Property* (October 1990).

<sup>5</sup> [Report on Family Law](#), Paragraph 2.95

<sup>6</sup> [Report on Family Law](#), Paragraphs 2.100 to 2.102

<sup>7</sup> See para 3.2

<sup>8</sup> See para 3.5 This would be a consequence of limiting the defence to only to those with parental responsibilities and rights.

<sup>9</sup> Hansard, House of Commons, 1 May 1995, cols 49-75.

<sup>10</sup> Sweden, Finland, Denmark, Norway, Austria, Cyprus, Croatia, Latvia

<sup>11</sup> The case of *Gray -v- Hawthorn 1964 J.C.69* sets out the criteria for evil intent as whether what happened was reasonable exercise of discipline, or exceed what could be regarded as reasonable chastisement.

<sup>12</sup> They are explained informally in our booklet "*Your Children Matter*". Copies are available from the Scottish Executive Justice Department, (0131 244 3581). It is also available on the Scottish Executive website at: <http://www.scotland.gov.uk/library/documents-w1/yem-00.htm>

<sup>13</sup> Consultation on possible changes to this provision was undertaken in the paper *Improving Scottish Family Law*, published by The Scottish Office in March 1999. In January 2000, the Deputy First Minister announced that a White Paper would be published in May, to be followed by a further period of consultation.

<sup>14</sup> Regulation 8 and paragraph 6 of Schedule 2 of the Fostering of Children (Scotland) Regulations 1996, (SI 1996/3263)

<sup>15</sup> Regulation 10(2) of The Residential Establishments - Child Care (Scotland) Regulations 1996 (SI 1996/3256)

<sup>16</sup> Inserted by section 48 of the Education (No 2) Act 1986

<sup>17</sup> See paras 2.8- 2.12

<sup>18</sup> *A v the United Kingdom* [1998] E.H.R.L.R. 82. The judgment is available on the internet at <http://www.dhcour.coe.fr/Hudoc1doc2/HEJUD/199904/a.%20v%20uk%20batj.doc>

<sup>19</sup> *A v the UK*, at para 22.

<sup>20</sup> And see para 2.12.

<sup>21</sup> A parent may be defined as a person who has parental responsibilities and rights under the Children (Scotland) Act 1995 (see para 3.11). It should be noted that an unmarried father does not automatically have parental responsibilities and rights.

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# The Physical Punishment of Children in Scotland: A Consultation

## Annex A

### Public opinion in Scotland

Extract from the Scottish Law Commission Report on Family Law 1992<sup>1</sup>

2.100 To test the view that drawing a distinction between ordinary safe smacking, on the one hand, and canings, beltings or beatings with objects of various sorts, on the other, might be a generally acceptable way of clarifying and limiting the extent of the parental right of chastisement we commissioned a public opinion survey, which was carried out for us by System Three Scotland in September 1991. We sought views on the acceptability of

- (a) smacking with the open hand in a way not likely to cause lasting injury, or
- (b) hitting with a belt, stick or other object in a way not likely to cause lasting injury.

The interviewers asked these questions in relation to children of different ages because we thought it possible that some people might be more tolerant of, say, caning a 15 year old than caning a 3 year old. Respondents were first asked the following question.

"Thinking first of a 3 year old child who has behaved badly, do you think it should be lawful or against the law for a parent to

- (a) smack the child with the open hand in a way not likely to cause lasting injury
- (b) hit the child with a belt, stick or other object in a way not likely to cause lasting injury?"

Respondents were then asked the same question in relation to a 9 year old and a 15 year old.

2.101 In relation to a 3 year old who had behaved badly 83% of the respondents considered that it should be lawful for a parent to smack the child with the open hand in a way not likely to cause lasting injury. However, 94% considered that it should be against the law for a parent to hit the child with a belt,

stick or other object, even if the hitting was not likely to cause lasting injury. Only 3% thought that it should be lawful for a parent to hit a 3 year old child with a belt, stick or other object. In relation to a 9 year old, 87% thought that it should be lawful to smack, but 91 % thought it should be against the law to hit with a belt, stick or other object. Only 7% thought that it should be lawful to hit a 9 year old with a belt, stick or other object. In relation to a 15 year old, 68% thought that it should be lawful to smack but 85% thought that it should be against the law to hit with a belt, stick or other object. Again, only a small minority (10%) thought that it should be lawful for a parent to hit a 15 year old with a belt, stick or other object. The combined results for all three sets of questions were as follows.

(Unweighted base: 1,055)

	Smack			Hit with belt, stick or other object		
	3 year old %age	9 year old %age	15 year old %age	3 year old %age	9 year old %age	15 year old %age
Lawful	83	87	68	3	7	10
Unlawful	14	11	25	94	91	85
Don't know	3	2	7	2	2	5

Older respondents were, on the whole more likely to think that corporal punishment with a belt, stick or other object should be lawful. For example, only 6% of those in the 15-44 year old age group thought this should be lawful in the case of a 15 year old, whereas 11% of those in the 45-64 year old age group and 18% of the over 65's did so. Other variations in attitudes among sub-groups of the population were found. One of the most interesting was that respondents with children in the household were two to four times *less* likely to think that hitting with a belt, stick or other object should be lawful than were respondents with no children in the household. There was, however, very little difference between these two groups so far as the lawfulness of smacking was concerned. The fact that only 1% of those with children in the household thought that it should be lawful to use a belt, stick or other object on a 3 year old and that the corresponding figures for 9 year olds and 15 year olds were only 3% and 6% respectively is particularly significant as it is this group which contains those who are in a position to claim that their parental rights would be affected by the relevant legislation.

2.102 The results of the survey confirmed that the distinction between smacking and the use of belts, sticks or other objects was indeed one which was likely to be acceptable to the great majority of the general public at this time. A solution based on this distinction would not please the small minority who think that it should be lawful for a parent to hit his or her child with a belt, stick or other object, nor the

larger minority who think that all smacking should be against the law, but it would be a practicable way forward which would improve the lot of some unfortunate children. It would not be inconsistent with education campaigns aimed at discouraging corporal punishment generally and emphasising the benefits of alternative child-rearing practices.

2.103 Some of those who commented on the discussion paper suggested that, even if nothing else were done section 12(7) of the Children and Young Persons (Scotland) Act 1937 should be repealed. This is the provision which, in the context of cruelty to children, expressly refers to the parental right to administer punishment. A number of our respondents regarded it as an unfortunate and confusing anachronism. Section 12(7) can be properly understood only by reference to section 12(1) which provides as follows.

"Cruelty to persons under sixteen.	12. - (1) If any person who has attained the age of sixteen years and has custody, charge, or care of any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence . . . ."
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Section 12(7) then provides that:

**"(7) Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person having the lawful control or charge of a child or young person to administer punishment to him."**

It should be noted that section 12(7) does not create a new defence. It merely refers, presumably for the avoidance of doubt, to an existing common law right to administer punishment. If it were repealed, the common law defence of lawful chastisement would still remain. The law would still distinguish between an assault on the one hand and lawful chastisement on the other. However to repeal section 12(7) at this stage without doing more would probably create confusion. People would wonder whether the express reference to "assaults" in section 12(1) covered an ordinary smack, or at least one which a court considered to have been "unnecessary". There would be an argument that section 12(7) must have had some purpose and that its repeal must have been intended to effect some change. The risk of confusion is caused by the reference to assault in section 12(1) and by the fact that, in Scots law, quite trivial blows, slaps or smacks can constitute assault. The references to assault in section 12(1) are plainly unnecessary as assault, or aiding and abetting assault, would in any event be a common law offence. One option therefore would be to remove the unnecessary references to assault in section 12(1). Assault would be left to turn on the common law. If this were done section 12(7) would clearly be inappropriate and could safely be repealed. There is no existing common law right to ill-treat, neglect, abandon or expose a child in a manner likely to cause him or her unnecessary suffering or injury to health and it would be absurd and objectionable to preserve a provision which seemed to suggest that there was. We are in favour of

repealing section 12(7). At best it is unnecessary. At worst it conveys the message that cruelty to children is acceptable if done in the name of punishment. If the repeal was accompanied by the other changes we are recommending there would be no risk of confusion so far as those exercising parental responsibilities or rights are concerned.

2.104 It remains to consider the positions of teachers and of those such as step-parents who have care or control of a child in a family situation but who do not have parental responsibilities or rights. So far as teachers are concerned, it would be going beyond the scope of this report, and beyond the scope of our consultation, to make any recommendation. The existing position, whereby corporal punishment is effectively outlawed in some schools but not, or not entirely, in others [2](#) may seem anomalous and we did receive suggestions that it should be changed. It might seem even more anomalous if some teachers were to have a greater right than parents to cane or belt children under their control. However, that is not a matter of family law and not a matter for us. The position of step-parents, cohabitants, foster parents or other people who have care or control of a child in a family situation but who do not have parental responsibilities or parental rights is different. We have already recommended that they should have certain powers to do what is reasonable in the circumstances for the purposes of safeguarding the child's health, development or welfare.[3](#) At present, such people are regarded, while they have charge or care of the child, as having the defence of reasonable chastisement available to them.[4](#) It would clearly be anomalous if they were to have greater rights to administer corporal punishment than the child's own parent. We therefore suggest that it should be made clear in the new legislation that, without prejudice to the position of teachers, a person who has care or control of a child but does not have parental responsibilities or parental rights in relation to the child should have no greater right than a parent has to administer corporal punishment to the child.

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## Footnotes to Annex A

<sup>1</sup> Scottish Law Commission *Report on Family Law* (Scot Law Com No 135, May 1992)

<sup>2</sup> Para 2.59 above.

<sup>3</sup> S48A of the Education (Scotland) Act 1980 (inserted by s48 of the Education (No.2) Act 1986) does not apply to teachers in private schools in so far as they inflict punishment on pupils whose fees are not paid out of public funds. It is worth emphasising again that s12(7) does not confer any defence. It simply refers to an existing common law defence which would, so far as teachers are concerned, be unaffected by our proposals. The teacher's right to administer corporal punishment, in so far as it has survived s48A of the Education (Scotland) Act 1980, is an independent right. It is not a parental right or a delegated parental right. It is, in the words of s48A, "a right exercisable by the member of the staff by virtue of his position as such".

<sup>4</sup> See e.g. *Byrd v Wither* 1991 SLT 206 (cohabitant). Cf Children and Young Persons (Scotland) Act 1937, s12(7).

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# The Physical Punishment of Children in Scotland: A Consultation

## Annex B

### Public opinion in England

The UK Government also commissioned an opinion survey in England through the Office for National Statistics (ONS) Omnibus Survey 1998. This is a national representative survey carried out monthly throughout the year. The survey was carried out in April 1998, and a random probability sample of approximately 2,000 adults was interviewed.

The results of this survey suggest that public opinion in England was very similar to the 1992 SLC survey. It would very much defend the right of parents to use physical punishment.

- 88% of respondents agreed that it was sometimes necessary to smack a naughty child, while only 8% disagreed.
- 85% agreed that parents should be allowed, by law, to smack a naughty child who is over 5 years old, with 9% disagreeing.
- There were no significant differences in the views on smacking held by men and women, or by parents in different age groups.
- 4% of respondents said that parents should be allowed, by law, to use a cane, stick or similar implement to punish a naughty child who is over five years old, while 7% said that parents should be allowed, by law, to use a cane, stick or similar implement to punish a naughty child who is over seven years old.
- Over 90% of respondents said that parents should be allowed, by law, to ground or keep a naughty child at home as a punishment.
- A minority said that parents should be allowed by law to punish children by depriving them of a meal or part of a meal (16%) or to shake or smack them on the head (2-3%).
- 60% considered that physical punishment that leaves no mark at all to be reasonable from the options presented. 36% would not specify any level of punishment as reasonable.

- Nearly all respondents considered punishment that leaves a red mark or bruising to be unreasonable (96% and over 99% respectively).

## 1998 ons survey ON PUBLIC OPINION IN ENGLAND

	% age Agreeing	% age Disagreeing
<b>Opinion statements on smacking</b>		
Parents should be allowed, by law, to smack a naughty child who is over five years old	85	9
Parents should be allowed, by law, to smack a naughty child who is over two years old	53	34
Parents should be allowed, by law, to smack a naughty child who is less than two years old	13	76
It is sometimes necessary to smack a naughty child	88	8
<b>Opinion statements on using canes or other instruments</b>		
Parents should be allowed, by law, to use things like canes, stick, belts or slippers to punish a naughty child who is over seven years old	7	89
Parents should be allowed, by law, to use things like canes, stick, belts or slippers to punish a naughty child who is over five years old	4	93
Parents should be allowed, by law, to use things like canes, stick, belts or slippers to punish a naughty child who is over two years old	1	97
Parents should be allowed, by law, to use things like canes, stick, belts or slippers to punish a naughty child.	9	87
<b>On this card is a list of other methods which some parents have used to punish a naughty child. Which of them do you think parents should be allowed to use by law?</b>		
"Grounding" or keeping the child in.	91	

Smacking the child over the head	2
Shaking the child	3
Not allowing the child a meal or part of a meal	16
Others (e.g. Sending the child to his or her room, or stopping the child from doing something he or she likes to do)	35
None of the above	5
<b>Which of the items on this card would you consider to be a reasonable level of punishment? Physical punishment that:</b>	
Leaves no mark at all on the child	60
Leaves a red mark that lasts for a few days	4
Leaves a bruise that lasts for a few days	<1
Leaves marks and bruises that last for more than a few days but which does not result in permanent injury	<1
None of the above	36

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## Annex C

### Children and Young Person (Scotland) Act 1937

#### PART II

#### PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND PHYSICAL DANGER

##### *Offences*

##### **Cruelty to persons under sixteen.**

**12.** (1) If any person who has attained the age of sixteen years and [who has parental responsibilities in relation to a child or to a young person under that age or has charge or care of a child or such a young person,]<sup>1</sup> wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence, and shall be liable-

(a) on conviction on indictment, to a fine . . .<sup>2</sup>, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding [ten]<sup>3</sup> years;

(b) on summary conviction, to a fine not exceeding level 2 on the standard scale, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding six months.

(2) For the purposes of this section-

(a) a parent or other person legally liable to maintain a child or young person [or the legal guardian of a child or young person]<sup>1</sup> shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing,

medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under [the enactments applicable in that behalf ]4;

(b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with some other person who has attained the age of sixteen years, that other person shall, if he was, when he went to bed, under the influence of drink, be deemed to have neglected the child in a manner likely to cause injury to his health.

(3) A person may be convicted of an offence under this section-

(a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;

(b) notwithstanding the death of the child or young person in question.

(4) Where any person who has attained the age of sixteen years is tried on indictment for the culpable homicide of a child or young person under the age of sixteen years [and he had parental responsibilities in relation to, or charge or care of, that child or young person]<sup>1</sup>, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section, to find him guilty of that offence.

(5) ..... 5

(6) .....

(7) Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person having the lawful control or charge of a child or young person to administer punishment to him.

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## Footnotes to Annex C

<sup>1</sup> Words substituted by Children (Scotland) Act 1995 (c36), Sch.4 para 7.

<sup>2</sup> Words repealed by Children Act 1975 (c. 72), Sch. 4 Pt. III

<sup>3</sup> Word substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 45(1)(2)

<sup>4</sup> Words substituted by S.I. 1951/174 (1951 I, p. 1369), Sch.

<sup>5</sup> Section 12(5)(6) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), Sch. 16

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## Annex D

### List of Consultees

Aberlour Child Care Trust  
Action of Churches Together in Scotland  
Association for All Speech Impaired Children  
Association of Chief Police Officers in Scotland  
Association of Children's Reporters  
Association of Directors of Education in Scotland  
Association of Directors of Social Work  
Association of Education Advisers in Scotland  
Association of Headteachers in Scotland  
Association of Primary Teachers  
Association of Scottish Community Councils  
Association of Scottish Police Superintendents  
Association of Scottish Principal Educational Psychologists  
Barnardo's  
Professor Alistair Bissett-Johnston,  
British Agencies for Adoption & Fostering  
British Association for the Study & Prevention of Child Abuse & Neglect  
British Psychological Society  
Catholic Education Commission  
Centre for Research into Law Refom, Glasgow  
Child Protection Committee  
Childline Scotland  
Children 1st (RSSPCC)  
Children are Unbeatable  
Children in Scotland  
Children's Panel Advisory Group  
Children's Panel Chairmen's Group  
The Children's Trust  
Church of Scotland  
Citizen's Advice Scotland  
Dr Eric Clive, CBE

Scottish Law Commission  
Comhairle Nan Sgoiltean Araich  
Comunn Nam Parant  
Convention of Scottish Local Authorities  
Couple Counselling Scotland  
Crown Office Working Group on Children  
Anne Hall Dick & Co  
Directors of Social Work  
Directors of Education  
District Courts Association  
Educational Institute of Scotland  
Ms Lilian Edwards  
Episcopal Church Education Committee  
EPOCH (End Physical Punishment of Children)  
Faculty of Advocates  
Family Care  
Family Law Association  
Family Mediation Scotland  
Focolare Movement in Scotland  
Forum on Scottish Education  
John Fotheringham Esq WS  
Free Church of Scotland  
Free Presbyterian Church of Scotland  
Ian R Gardiner Esq  
General Teaching Council for Scotland  
Glasgow Jewish Representative Council  
Headteachers Association of Scotland  
Home Start UK Scotland  
Humanist Society of Scotland  
Islamic Centre  
Kids Need Both Parents  
Kidscape  
The Law Society of Scotland  
Dr Penelope Leach  
The Lord Advocate  
The Lord President of the Court of Session  
Mothers Union in Scotland  
NASUWT  
National Association of Social Workers in Education  
National Board for Nursing, Midwifery & Health Visiting for Scotland  
NCH Action for Children  
National Foster Care Association Scotland  
National Playbus Association

One Parent Families Scotland  
One Plus  
Principal Clerk of Session & Justiciary  
Procurators Fiscal Society  
Professional Association of Teachers (Scotland)  
Rape Crisis Network  
Regional Sheriff Clerks  
Save the Children  
Scottish Adoption Advice Services  
Scottish Adoption Association Ltd  
Scottish Association of Children's Curators  
Scottish Association of Children's Panels  
Scottish Association of Community Child Health  
Scottish Association of Community Education  
Scottish Association of Family Centres  
Scottish Catholic Marriage Care  
Scottish Child Care & Education Board  
Scottish Child Law Centre  
Scottish Childminding Association  
Scottish Children Act  
Scottish Children's Reporter Administration  
Scottish Council for Civil Liberties  
Scottish Council for Independent Schools  
Scottish Council for Racial Equality  
Scottish Council for Single Parents  
Scottish Council for Voluntary Organisations  
Scottish Council of Jewish Communities  
Scottish Early Years and Family Network  
Scottish Health Visitors Association  
Scottish Independent Special Schools Group  
Scottish Inter Faith Council  
Scottish Law Agents' Society  
Scottish Law Commission  
Scottish Legal Action Group  
Scottish Legal Aid Board  
Scottish Marriage Care  
Scottish Out of School Care Network  
Scottish Parent Teacher Council  
Scottish Parenting Forum  
Scottish Parents Information Network  
Scottish Partnership on Domestic Violence  
Scottish Police Federation  
Scottish Pre-School Play Association

Scottish Safeguarders Association  
Scottish School Board Association  
Scottish Secondary Teachers' Association  
Scottish Society for Autistic Children  
Scottish Women's Aid  
SENSE Scotland  
Sheriffs' Association  
Sheriffs Principal  
Society of Local Authority Chief Executives (Scotland)  
Stepfamily Scotland  
Ms Karen Still  
STUC Women's Committee  
UK Asian Women's Conference  
UK Men's Movement  
University faculties of law  
Victim Support Scotland  
Volunteer Development Scotland Ltd  
Gordon Blair Esq, West Lothian Council  
Who Cares, Scotland  
Women in the Community  
Women in Scotland Consultative Forum  
Youth Clubs Scotland  
Zero Tolerance Trust

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