

Response to the Northern Ireland Assembly Committee for Justice Call for Evidence on the Justice Bill

3 April 2025

Introduction

The NSPCC is the leading children’s charity fighting to prevent child abuse in the UK and Channel Islands. We help children who have been abused to rebuild their lives, protect those at risk, and find the best ways of preventing abuse from every happening. To achieve our vision, we:

- create, deliver and evaluate services for children which are innovative, distinctive and demonstrate how to enhance child protection;
- provide advice and support to ensure that every child is listened to;
- campaign for changes to legislation, policy and practice to ensure the best protection for children; and
- inform and educate the public to change attitudes and behaviours.

The NSPCC welcomes the opportunity to provide written evidence on this Justice Bill designed to improve the operation and effectiveness of the justice system. As a child protection and safeguarding organisation, the NSPCC’s response is limited to the proposed and planned changes to the law which directly relate to the protection of children. We comment on clauses 25 and 29 within Part 4 of the Bill, relating to Administration of Justice.

We also detail an additional area in need of urgent legal reform which has not been addressed in the Bill, that of the removal of the defence of reasonable punishment to afford children equal protection from assault as adults. The NSPCC would like to see the removal of the defence being brought forward as amendment to this Bill.

Finally, we set out the NSPCC’s view that the Sexual Offences (Northern Ireland) Order 2008, as amended by the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022, does not go far enough, nor is it expansive or inclusive enough to protect children from adults in a position of trust to them in non-statutory settings, outside of religion and sport. The Justice Committee should explore

options, including via this Bill, to rectify this to ensure protections to keep children safe do not depend on the setting or activity the child is taking part in, but the risk of harm to children.

Commentary on the provisions of the Bill

Clause 25: Death of child or vulnerable adult: limitation of power to “No Bill” alternative charge

The NSPCC welcomes the proposal to amend Section 7 of the Domestic Violence, Crime and Victims Act 2004 so that in relevant cases a Judge can only enter a “No Bill” on a charge such as murder or manslaughter, if it is also entered under section 5 of the 2004 Act, which relates to causing or allowing the death of a child or vulnerable adult.

As set out in the Explanatory and Financial Memorandum to the Bill, *“This clause closes a gap in the law in relation to the offence of causing or allowing a child or vulnerable adult to die (under section 5 of the Domestic Violence, Crime and Victims Act 2004) and section 7 of the 2004 Act which provides special rules for trials in Northern Ireland where a defendant is charged, within the same proceedings, with the section 5 offence and also with murder or manslaughter in relation to the same death”*.¹

Section 2(3) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 makes provision so that a judge in the Crown Court has the power to enter a no bill in the Crown book in respect of any indictment presented to it, if he or she is satisfied that there is not a significant case to justify putting a person on trial for the indictable offence.

Section 5 of the 2004 Act, under which there is an offence of causing or allowing a vulnerable adult or child to die, has already been extended by the Justice Act (Northern Ireland) 2015 in relation to the entry of a no bill for cases of causing or allowing serious physical harm. This law is intended to address scenarios in which there are *“two [or more] caregivers in a household, but there is no evidence to suggest*

¹ [EFM - As Introduced](#)

that they acted jointly – that one caregiver caused the harm, and the other did not take reasonable steps to prevent it, but there is no evidence to implicate one over the other".² A Crown Court judge can only enter a no bill in relation to attempted murder, grievous bodily harm or non-fatal strangulation, if they also do so in relation to the offence of causing or allowing serious physical harm. Given evidential difficulties in such cases, the risk of a no bill would be that the more serious charges of attempted murder, grievous bodily harm or non-fatal strangulation could be dismissed prematurely before all the evidence is heard.³

A loophole persists for the murder/manslaughter charge which we understand this clause intends to redress. That is, the law as it stands means that it is possible for a judge to dismiss the murder/manslaughter charge whilst continuing with the causing or allowing the death of a child or vulnerable adult charge.

Having examined the clause in detail and met with Department of Justice Officials, the NSPCC agrees with the need for the change to existing legislation, which would also bring the law in Northern Ireland into line with equivalent arrangements in England and Wales: a judge in England and Wales cannot enter a no bill on the charge of murder or manslaughter unless the charge of causing or allowing death is also dismissed.

Clause 29: Automatic review of certain criminal records certificates

Our comments on clause 29 of the Bill regarding an automatic review of certain criminal records certificates are limited, in recognition of the NSPCC's specific interest as an organisation focussed on safeguarding and child protection.

In Northern Ireland, the criminal records review scheme allows for an independent review of criminal record information that could be, or is disclosed, on a Standard or enhanced AccessNI criminal record certificate.⁴ Such reviews are undertaken by the

² [committee-34969.pdf](#)

³ [committee-34969.pdf](#)

⁴ [Criminal records filtering review scheme | Department of Justice](#)

Independent Reviewer of Criminal Record Information, a public appointment introduced by the Department in 2019.⁵

The NSPCC understands that clause 29 is intended to update existing legislation to comply with a Supreme Court judgement on the disclosure of non-court disposals for under-18s.⁶ AccessNI has been referring all youth court non-disposals to the independent reviewer since March 2020, hence the Independent Reviewer has been undertaking this function for a significant period of time already on an administrative basis. It is our understanding that this clause is intended to bring the law up to speed with current practice.

It is noted within the Independent Reviewer's annual report for 2023/24⁷ that in reviewing 165 cases involving youth diversions, information was removed in 159 of these. In the remaining six cases where information was retained, the Independent Reviewer reported this was necessary to ensure that the safeguarding of children and vulnerable groups was protected.

The NSPCC concurs that a process must be in place to allow for retention of information in cases where there are safeguarding risks. Regardless of what overall process is agreed by experts in youth justice, our core position is that this mechanism must allow for safeguarding exceptions.

Equal Protection

An additional area that has not been addressed in this Justice Bill is that of the removal of the defence of reasonable punishment to afford children in Northern Ireland equal protection from assault as adults.

The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006⁸ provides for a defence of 'reasonable punishment' for parents and carers who are accused of

⁵ [Appointment of Independent Reviewer of Criminal Record Certificates | The Northern Ireland Executive.](#)

⁶ [In the matter of an application by Lorraine Gallagher for Judicial Review \(NI\). R \(on the appn of P, G and W\) \(Resps\) v SSHD and anr \(Appellants\) and R \(on the appn of P\) \(Appellant\) v SSHD and ors \(Resps\).](#)

⁷ [IR Annual Report 2023 24.PDF.](#)

⁸ [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2006.](#)

assault against a child. There is urgent need for legal reform of this provision. The NSPCC strongly believes that this is a key public protection issue, and we would like to see the removal of the defence being brought forward as amendment to this Bill.

Such an amendment would enhance the range of significant reforms to the justice system that are already proposed within the Bill. We cannot afford to miss this important opportunity to change the law to better protect our babies, children and young people from the harmful effects of physical punishment. Children are the only group in society who are currently legally acceptable to strike in certain circumstances. An amendment would close this legal loophole.

In England, an opportunity for legal change is also currently being pursued through the Children's Wellbeing and Schools Bill.⁹ Legal change to remove the 'reasonable punishment' has already occurred in all other parts of the United Kingdom (UK) and in Ireland:

- Scotland: The Bill was introduced to Scottish Parliament in September 2018 and passed its first stage debate in May 2019. The Bill was voted through in October 2019 and became law in November 2020.
- Wales: The Welsh Assembly voted to abolish the defence of reasonable punishment in Wales in January 2020. The Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 came into force in 2022.
- Jersey: The defence of reasonable chastisement was removed in Jersey through the Children and Education (Amendment) (Jersey) Law 2020, which came into force in April 2020.
- Republic of Ireland: The Children First Act (2015) included an amendment to the Non-Fatal Offences Against the Person Act (1997) which abolished the common law defence of reasonable chastisement.

⁹ See: [English smacking ban being considered by government - BBC News](#); [Amendment NC10 to Children's Wellbeing and Schools Bill to Children's Wellbeing and Schools Bill - Parliamentary Bills - UK Parliament](#).

The case for legal reform in Northern Ireland is particularly compelling in light of the strong and consistent international evidence that physical punishment is harmful and counterproductive.¹⁰

Physical punishment can increase aggression, antisocial behaviour, depression and anxiety in children, which may continue into their adult lives. Crucially, physical punishment is not just ineffective as a behavioural correction tool – but often counterproductive. In addition, harsh forms of discipline and physical forms of abuse can have long-lasting consequences for future behaviour and mental health.^{11 12}

Physical punishment and physical abuse are part of a continuum of violence, differing only by severity or degree.¹³ Physical punishment is also among a range of important risk factors for child physical abuse, and carries with it the risk of escalation into physical abuse. A 2024 report by the Royal College of Paediatrics and Child Health (RCPCH) states that children who are physically punished are 2.3 times more likely to go on to be physically abused.¹⁴ This is backed by a major 2015 international literature review which concluded that the association between corporal punishment and physical abuse was “*statistically significant and considered*

¹⁰ Heilmann, A., Kelly, Y. and Watt, R.G. (2015) *Equally Protected - A review of the evidence on the physical punishment of children*. Edinburgh: Children and Young People’s Commissioner Scotland, Children 1st, Barnardo’s Scotland, NSPCC Scotland.

¹¹ Gershoff, E.T. and Grogan-Kaylor, A. (2016). Spanking and child outcomes: old controversies and new meta-analyses. *Journal of Family Psychology*, Volume 30, Issue 4, pp. 453-469.

¹² Most significantly, a UK-wide study published in 2022 – using data from the Millennium Cohort Study (MCS) (which included a Northern Ireland sample) examined the impact of ACEs on later mental health. Using parent-reported data (including NI parents), it was found that harsh parenting and physical punishment were particularly strongly associated with externalizing problems from childhood to adolescence. Bevilacqua, L., Kelly, Y., Heilmann, A., Priest, N. and Lacey, R.E. (2021) *Adverse childhood experiences and trajectories of internalizing, externalizing, and prosocial behaviors from childhood to adolescence*. *Child Abuse and Neglect*, 112, 104890. The Millennium Cohort Study is a UK-wide nationally representative study. The research examined eight ACEs: (1) parental separation, (2) parental depression/anxiety, (3) parental drug use, (4) parental alcohol use, (5) inter-parental use of force, (6) parental discord, (7) harsh parenting, (8) physical punishment. Mental health outcomes were measured as internalising, externalising and prosocial behaviour at ages 3, 5, 7, 11 and 14 years.

¹³ Grogan-Kaylor A, Ma J, Graham-Bermann S (2018) The case against physical punishment, *Current Opinion in Psychology*, Volume 19.

¹⁴ RCPCH (2024) *Equal protection from assault in England and Northern Ireland Policy Report* [rcpch-equal-protection-from-assault-england-ni_policy-report-2024-v1-2.pdf](#).

moderate".¹⁵ Most physical abuse starts out as physical punishment to correct misbehaviour, where the punishment escalates in force and intensity.¹⁶

While not all physical punishment results in child abuse, many child deaths resulting from child abuse across the UK are from physical assaults. The deaths of both Victoria Climbié and Peter Connelly involved harsh physical punishment. Victoria Climbié's 'carers' initially punished her with slaps and smacks which escalated into horrific torture that led to her death. Sara Sharif was repeatedly assaulted and tortured before being finally murdered in August 2023 by her father and step-mother in what was an absolutely shocking case of brutal and prolonged abuse. This terrible case has highlighted the ambiguity of the current legal position in Northern Ireland and England around the physical punishment of children. It is disturbing that Urfan Sharif, Sara's father, believed – and told police – that he 'did legally punish' Sara for being naughty.¹⁷

Research has also established that in the majority of cases, children who are physically punished are very young. A research briefing published in 2024 by academics from University College London (UCL) setting out the findings of an analysis of data from three large, representative UK cohort studies on the prevalence of child physical punishment in the UK, reports that prevalence is highest for pre-school children and declines as children get older.¹⁸ This is backed by global estimates which indicate that 63% of children aged 2 to 4 are regularly subjected to physical punishment by their caregivers.¹⁹ Data relating to Scotland suggests that the prevalence of physical punishment reported by parents is at its highest when children are aged between 3 and 7 years old, and that the prevalence decreases as

¹⁵ See footnote 10 above.

¹⁶ Gershoff E.T. and Bitensky, S.H. (2007): The case against corporal punishment of children – Converging evidence from social science research and international human rights law and implications for US public policy. *Psychology Public Policy and Law*, 13(4), 231-272; Gershoff E.T. (2002): Corporal punishment by parents and associated child behaviors and experiences: a meta-analytic and theoretical review. *Psychological Bulletin*, 128(4), 539-579.

¹⁷ NSPCC (2024) [Our response to the Sara Sharif verdict | NSPCC](#).

¹⁸ [ICLS Policy brief large print graph](#). The research briefing summarises findings from UK data on the prevalence of physical punishment, how it is related to child and family characteristics, and how it has changed over time. Data came from three large, representative cohort studies: the Millennium Cohort Study (MCS), Growing Up in Scotland (GUS), and Understanding Society.

¹⁹ United Nations Children's Fund (2017) *A familiar face: violence in the lives of children and adolescents*. New York: UNICEF.

children get older.²⁰ The 2024 UCL briefing also concludes that boys experience more physical punishment than girls.²¹

While international evidence suggests physical punishment is decreasing,²² it remains a part of too many childhoods. Last year, the NSPCC reported more than a 300% increase in contacts to our Helpline about physical punishment against children.²³ Between April 2023 and March 2024, the NSPCC Helpline answered 1,451 contacts across the UK that mentioned physical punishment against children. This was over three times higher than the year before. This included but was not limited to children being hit, slapped, and shaken, as part of discipline and punishment. Over half of the contacts to our Helpline were from people who were concerned about a parent's behaviour towards their child. One in ten were from children themselves. There were also contacts from professionals who work with children directly. Between April 2023 and March 2024, Childline delivered 717 counselling sessions to children with concerns about physical punishment.²⁴

Given research evidence highlighted in this submission on the link between physical punishment and physical abuse, the NSPCC Helpline and Childline figures are of particular concern. It is also particularly pertinent to Northern Ireland, where, as of 31 March 2024, 2,334 children were listed on the child protection register, with neglect and physical abuse accounting for 81% of those children.²⁵

The removal of the legal defence of reasonable punishment is associated with accelerated declines in the prevalence of physical punishment as well as reduction in

²⁰ [Children \(Equal Protection from Assault\) \(Scotland\) Bill \(parliament.scot\)](#) and Heilmann et al (2015), see footnote 5 above, pp. 20-22.

²¹ [JCLS Policy brief large print graph.](#)

²² Heilmann, A, Kelly, Y and Watt. R.G. (2015) Equally Protected - A review of the evidence on the physical punishment of children. Edinburgh: Children and Young People's Commissioner Scotland, NSPCC Scotland, Children 1st, Barnardo's Scotland; UCL research briefing (2024) Physical Punishment of Children in the UK: Research Briefing https://www.ucl.ac.uk/epidemiology-health-care/sites/epidemiology_health_care/files/ucl_briefing_physical_punishment_april_2024.pdf.

²³ [Over 300% increase in contacts to our Helpline about physical punishment against children | NSPCC.](#)

²⁴ [Give children equal protection from physical abuse | NSPCC.](#)

²⁵ [Children's social care statistics for Northern Ireland 2023/24.](#)

severe physical abuse.²⁶ Legislative reform is a powerful driver for transforming public attitudes, which we know are already shifting.

In 2022, NSPCC NI published the results of a survey of public attitudes on equal protection in Northern Ireland.²⁷ The results revealed that almost two thirds (65 per cent) of adults in Northern Ireland support a change in the law to protect children from being physically punished by their parents and carers. Among parents, carers and guardians this rose to 71 per cent. Seventy per cent of survey respondents, and 74 per cent of parent/carer respondents, confirmed they would be more likely or much more likely to support legal reform in Northern Ireland if they were provided with [more] information and support on how to manage children's behaviour effectively. Seventy-two per cent of adult and 75 per cent of parent respondents said they would be more likely to support a change in the law if they were assured that parents could still physically intervene to protect a child from immediate danger (e.g. running across a road). Crucially, 60 per cent of adults surveyed did not know the law currently allowed for 'reasonable chastisement' of children.

Abolishing the defence of reasonable punishment would not introduce any new offence. It is solely about protecting children and keeping them safe from harm. Accusations of assault against a child would be investigated by police and social services exactly as they are now and the thresholds for intervention would not change. Widespread criminalisation of parents has not been the effect in any of the 68 countries that have brought about this legal change. This is about clarifying the law and giving children the same protection for assault as adults. Following law reform, any parent or carer suspected of assaulting a child would no longer be able to defend themselves by claiming they were carrying out a "reasonable punishment."

²⁶ Zolotor AJ, Puzia ME (2010): Bans against corporal punishment: a systematic review of the laws, changes in attitudes and behaviours. *Child Abuse Review*, 19(4), 229-247.

²⁷ NSPCC NI (2022) Policy Briefing - Public Attitudes on Equal Protection. February 2022. Belfast: NSPCC NI. NSPCC NI commissioned Social Market Research (SMR) to undertake a survey of public attitudes about this issue in Northern Ireland, based on questions previously developed, adapted and used by the Northern Ireland Commissioner for Children and Young People (NICCY) in 2017. NICCY (2017) *Changing Perceptions: Equal Protection for Children*. NICCY's work and survey results on attitudes to physical punishment. Belfast: NICCY. [Changing Perceptions: \(niccy.org\)](https://www.niccy.org).

When the Welsh government reformed their law through the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020²⁸ which came into force in 2022, provision was included requiring Welsh Ministers to prepare, and lay before the Senedd, two reports on the effect of the Act. Section 3 of the 2020 Act requires these to be produced as soon as practicable three and five years after the Act came into force (2025 and 2027). Publication of the report reviewing the first three years of implementation is expected this year. In March 2025, reflecting on the third anniversary of implementation of the legal change and in anticipation of the impending progress report, Jane Hutt MS, Cabinet Secretary for Social Justice, Trefnydd and Chief Whip, reflected that *“we need to, hopefully, help and encourage the UK Government to look at this, and our experience, in terms of moving forward to abolish the use of physical punishment of children, joining all those nations across the world who’ve embraced this policy”*.²⁹

New Zealand was the first English-speaking country to ban all forms of physical punishment in 2007, and state organisations carefully monitored the amount and responses to cases of parental physical punishment.³⁰ Regular police reports to the government show that there were just eight prosecutions between 2007 and 2012.³¹ In November 2009, the Chief Executive of the Ministry for Social Development and Employment reported to the Minister that the police data showed that, although there had been a rise in the reporting of violence generally, parents had not been prosecuted for “light smacking.” He commented that the police believe that the new law, “has had a minimal impact on their business” and there has been no change in the reporting of smacking since the law was enacted.³²

The NSPCC believes government must give parents support and encouragement to find non-violent means of discipline for their children. We want to see the Northern Ireland Executive adopting a twin track approach to supporting parents through the removal of the legal defence and a widespread public education

²⁸ [Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Act 2020](#).

²⁹ [2. Business Statement and Announcement: 11 Mar 2025: Senedd debates - TheyWorkForYou](#).

³⁰ See: <http://www.police.govt.nz/sites/default/files/resources/10-review-section-59.pdf>.

³¹ As above.

³² Ministry of Social Development (2009) Report to the Minister for Social Development and Employment: pursuant to section 7(2) of the Crimes (substituted section 59) Act. Wellington (New Zealand): Ministry of Social Development.

campaign on positive parenting. This has been a major factor in the success of legislative and cultural change on this issue in other countries. In 2007-8 the German Research Foundation funded a five-nation comparative study to assess the effects of banning physical punishment and the role of information and education campaigns. The authors concluded that, “...there can no longer be any doubt about the violence-reducing effect of a ban on childrearing violence.” The cross-country comparison showed that, “...the combination of law reform and intensive, long-term public education is more effective in changing attitudes and behaviours than either strategy alone.”³³

The removal of the defence of reasonable punishment in Northern Ireland would be a key legislative amendment which would lead to better public protection and greater legal protections for children from the extremely damaging impacts of physical punishment. Affording children equal protection from assault as adults, and their peers in other parts of the UK and Ireland, will send out a clear message from our government that no form of physical violence is acceptable in any of our homes. It should be considered as an amendment to this Bill.

Positions of Trust: Abuse of Power

Position of trust is a legal term that refers to certain roles and settings where an adult has regular and direct contact with children.³⁴ In 2022, following the NSPCC’s Close the Loophole campaign,³⁵ the Sexual Offences (Northern Ireland) Order 2008 was amended by the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 to expand position of trust roles to include sports coaches and faith group leaders. Prior to this legislative change, the abuse of position of trust offences applied only to those adults in a position of trust of young people within the statutory sector, such as in education, health environments, youth detention and social service care.³⁶

³³ Bussmann K, Erthal C, Scroth A, The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison [Bussmann European Suvey](#).

³⁴ Further information available at: [Preventing abuse in positions of trust | NSPCC Learning](#).

³⁵ As above.

³⁶ [Justice \(Sexual Offences and Trafficking Victims\) Act \(NI\) 2022](#), page 50.

It is NSPCC’s view that legal reform in 2022 did not go far enough, nor is it expansive or inclusive enough to protect children from adults in a position of trust to them in non-statutory settings, outside of religion and sport. We believe that protections to keep children safe should not depend on the setting or activity the child is taking part in, but the risk of harm to children.

As the law currently stands, adults working in non-statutory settings in a position of trust to 16 and 17 year olds in areas other than religion and sport remain outside of the law. For example, it is stated in the Department of Justice Guidance on the 2022 Act that the addition of religion as an area means that *“Drama might also fall within scope if, for example, the nature of a play or the messaging portrayed, related to religious teaching”*.³⁷ The protection of children should not apply on such an arbitrary basis - as the law currently stands, there are too many gaps. While the legislation places emphasis on the activity type, the harm to children remains the same regardless of the context of abuse of positions of power.

At the end of 2022, the Department of Justice issued a call for evidence on the amendment made to the abuse of position of trust provision, seeking supporting information on any specific areas of risk which would necessitate an extension of the law.³⁸ The consultation was issued to fulfil a commitment to review the abuse of position of trust legislation. It is outlined in the Summary of Responses to the consultation published in November 2024, that the majority of the respondents were of the view that *“the provisions should be extended, in some form, and there was support for extension to a variety of settings”*.³⁹ The NSPCC understands from the Summary of Responses document that the Department intends to look at this area more widely going forward, with a view to considering the best legislative approach. The 2022 legislation requires the Department to review the area on annual basis – the NSPCC wishes to see legislative reform which will make it illegal for all adults in a position of trust to engage in sexual activity with any young person under 18.

Legislation should provide vital protections to children and young people across as broad a range of environments and extracurricular activities as possible, not limited

³⁷ [Justice \(Sexual Offences and Trafficking Victims\) Act \(NI\) 2022](#), page 53.

³⁸ [Abuse of Position of Trust Offences: Extension of the Law – A Call for Evidence | Department of Justice](#).

³⁹ [Abuse of position of trust summary of responses | Department of Justice](#), page 7.



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to sport and religious settings. We ask the Committee to consider this as part of its scrutiny of the Justice Bill.

Conclusion

The NSPCC welcomes the opportunity to provide evidence to the Justice Committee on the Justice Bill. The Bill offers a critical vehicle to enhance the range of significant protections to infants, children and young people through the justice system. We would be more than happy to engage further with the Committee on how they can support our work to safeguard children and protect them from harm.