

“Physical Punishment in the Home – Thinking about the Issues, Looking at the Evidence”

ANALYSIS OF RESPONSES



Office of Law Reform

**Office of Law Reform
Department of Finance and Personnel**

PHYSICAL PUNISHMENT IN THE HOME – THINKING ABOUT THE ISSUES, LOOKING AT THE EVIDENCE: ANALYSIS OF RESPONSES

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PHYSICAL PUNISHMENT IN THE HOME – THINKING ABOUT THE ISSUES, LOOKING AT THE EVIDENCE: ANALYSIS OF RESPONSES

EXECUTIVE SUMMARY

On 11 September 2001, the Office of Law Reform published a Consultation Paper – “*Physical Punishment in the Home – Thinking about the Issues, Looking at the Evidence*” – which invited views on the use of physical punishment in the home.

At present, parents in Northern Ireland (or someone acting on their behalf) can raise the defence of reasonable chastisement if charged with assault or child cruelty following the physical punishment of their child. The law in this regard is similar in England and Wales. However, in the case of *A -v- UK*¹, the law was subject to the scrutiny of the European Court of Human Rights.

In that case, a boy of 9 was repeatedly beaten by his stepfather with a garden cane, using considerable force. The police had previously been involved and the boy had been placed on the child protection register. The beatings left bruises which lasted for a week and were severe enough for the stepfather to be tried for assault occasioning actual bodily harm. However, the jury acquitted the stepfather on the basis that his action had amounted to nothing more than reasonable chastisement of the child.

The case was taken to the European Court of Human Rights, which held that the UK had contravened Article 3 of the European Convention on Human Rights (ECHR) by failing to provide A with adequate protection from inhuman and degrading treatment.

The law on reasonable chastisement was reconsidered in April 2001, when the case of *R-v-H*² came before the English Court of Appeal. On that occasion, the Court stated that the courts should take *A-v-UK* into account and have regard to the considerations listed by the European Court, as well as the reasons given by the defendant for administering the punishment.

The re-examination of the applicable law in Northern Ireland was prompted, in part, by the judgments in *A-v-UK* and *R-v-H*. However, the

¹ [1998] 2FLR 959

² Court of Appeal, Criminal Division, judgment of 25/4/01, the Times 17 May 2001.

need for a review was reinforced by a number of other factors, including the incorporation of the ECHR into domestic law and locally driven rights initiatives.

The Consultation Paper posed a series of questions and sought comment on key issues. Responses were requested by 31 January 2002 and just over 1700 were received.

Many of the responses addressed only some of the questions/issues raised in the Paper. However, it was clear from the responses that there was a marked division of opinion between individuals, who tended to support the continuing use of physical punishment, and organisations/healthcare professionals, who tended to want it banned.

Two of the key questions were whether physical punishment is an effective form of discipline and whether it is an appropriate form of discipline. The former drew 901 responses, 802 (just over 89%) of which were in the affirmative. The latter drew 1023 responses, 902 (just over 88%) of which were in the affirmative.

The number of people endorsing the use of physical punishment is well in excess of that recorded by the Northern Ireland Statistics and Research Agency in its Northern Ireland Omnibus Survey of March 2001. On that occasion, a representative sample of just over 1000 people were interviewed and only 34% stated that physical punishment was acceptable. The marked increase in the level of acceptability is, however, probably attributable to a concerted and organised campaign (this included the distribution of standard letters of opposition) by those who believe in physical punishment for religious reasons.

The Paper did not offer a “no change” option. However, when asked whether the defence of reasonable chastisement should be removed or limited, 1503 of the respondents (just over 90% of those who replied to the question) stated that it should simply be retained. 15 responses advocated limitation and 150 supported abolition.

As mentioned above, religious belief played a central role and most of those opposed to change relied on Biblical authority. For them, any attempt to curtail the use of physical punishment would constitute an unacceptable interference with religious freedom. However, others suggested that relevant passages in the Bible could be interpreted as references to the general need for discipline and not just the need for physical punishment.

In contrast, the leading children's charities highlighted the risk of escalating levels of physical punishment and argued that international human rights standards could only be met by an outright ban.

The Consultation Paper was underpinned by face-to-face discussions in focus groups in Londonderry and Belfast and a package of consultation methods (including face-to-face discussions and activity sheets) that were specifically aimed at children and young people.

When the participants in the focus groups were asked whether the defence of reasonable chastisement should be removed or limited, 3 people stated that it should simply be retained, 28 people supported its abolition and 52 people advocated its limitation. The 62% support for limitation contrasts sharply with the less than 1% support for limitation in the written responses to the Consultation Paper. It is difficult to reconcile the two results. However, it could be argued that the focus groups provoked a more complex response, by enabling participants to explore real-life scenarios, rather than simply recite quotations and research.

Given the vested interest, it might have been expected that children and young people would have voted overwhelmingly for the abolition of physical punishment in the home. However, across the age groups, there was a keen understanding of the challenges facing parents and an acceptance of the need for discipline and appropriate levels of behaviour.

On the whole, the children were prepared to tolerate the occasional use of physical punishment, provided the level of force was kept to a minimum and implements were not used.

Most of the children could accept physical punishment where the child was in obvious danger or had received prior warnings about his/her conduct. However, even then, it was felt that consideration should be given to the age and level of understanding of the child and the availability of alternative punishments.

It was clear that some children were haunted by the spectre of punishment in public or of being marked and exposed to ridicule by their friends.

It was also clear that some children had a strong sense of family and an awareness of the potentially destructive impact of familial violence.

Among the older children there was a worrying, albeit minority view, that extreme physical punishment was acceptable if it could be met in kind.

There was also some support for punishments that are known to be particularly dangerous, such as shaking.

The older children were willing to take a range of factors into account when determining whether the punishment was reasonable. However, the preceding events and the age and health of the child were identified as the most crucial considerations.

Almost 80% of the older children favoured some form of age limit. However, it would be difficult to justify an arbitrary cut-off point, as there was support for limits on either side of the preferred limit of six years. This is all the more so because some of the younger children voiced support for an age limit of 4 or 5.

Almost 79% of the older children voted to retain the option of physical punishment. However, there was strong support for alternative methods of discipline and the role of the Government in helping parents to pursue those methods was recognised.

From the above, it can be seen that the consultation exercise produced a range of diverse views on the issue of physical punishment. However, several significant points of agreement can be distilled from the responses. Most people recognised the significance of, and demands associated with, the parenting role. They also emphasised the importance of a strong, loving parent/child relationship, the need to set boundaries and equip children with the skills required for communal living and the need to prevent long-term physical or emotional damage. There was also widespread support for a programme of public education and other methods of providing assistance to parents.

Since the conclusion of the consultation exercise the defence of reasonable chastisement has been the subject of adverse comment, at both a domestic and international level. In particular, the UN Committee on the Rights of the Child has clearly stated that the limitation of the defence is insufficient to ensure compliance with the United Nations Convention on the Rights of the Child and the Westminster Joint Committee on Human Rights has labelled the defence “unacceptable”.

The Office of Law Reform and other interested Departments will now reflect on the submissions and comments that have been made and will continue to monitor developments in relation to this issue within the U.K., the Irish Republic and internationally.

PHYSICAL PUNISHMENT IN THE HOME – THINKING ABOUT THE ISSUES, LOOKING AT THE EVIDENCE: ANALYSIS OF RESPONSES

Introduction

On 11 September 2001, the Office of Law Reform published a Consultation Paper entitled “*Physical Punishment in the Home – Thinking about the Issues, Looking at the Evidence*”.

The aim of the Paper was to stimulate debate and elicit views with regard to the physical punishment of children. The need for the debate was prompted, in part, by the case of *A -v- UK*¹, which came before the European Court of Human Rights in 1998, and the follow up case of *R-v-H*², which came before the Court of Appeal in England and Wales in 2001.

In *A-v-UK*, a boy of 9 was repeatedly beaten by his stepfather with a garden cane, using considerable force. The police had previously been involved and the boy had been placed on the child protection register. The beatings left bruises which lasted for a week and were severe enough for the stepfather to be tried for assault occasioning actual bodily harm. However, the jury acquitted the stepfather on the basis that his action had amounted to nothing more than reasonable chastisement of the child.

The case was taken to the European Court, which held that the UK had contravened Article 3 of the ECHR by failing to provide A with adequate protection from inhuman and degrading treatment.

The European Court had noted the absence of guidance for judges and juries tasked with assessing the punishment in a particular case and, on pronouncing its judgment, emphasised the right of children and other vulnerable people to State protection “in the form of effective deterrence, against such serious breaches of personal integrity”.

The law on reasonable chastisement was reconsidered in April 2001, when the case of *R-v-H* came before the English Court of Appeal. On that occasion, the Court stated that the courts should take *A-v-UK* into account and have regard to the considerations listed by the European Court (see Annex A), as well as the reasons given by the defendant for administering the punishment.

¹ 1998 2 FLR 959

² Court of Appeal, Criminal Division, 25/4/01, *The Times* 17 May 2001.

The adverse comments of the European Court and the gloss placed on those comments by the English Court of Appeal in R-v-H prompted the initial decision to re-examine the law on reasonable chastisement in Northern Ireland. However, a number of other local developments, including the incorporation of the ECHR into domestic law, the introduction of the equality provisions in the Northern Ireland Act 1998 and the proposals for a Commissioner for Children and Young People and a Bill of Rights, provided further impetus and reinforced the view that it was an opportune time to reconsider the issues.

The Paper explored a range of options (from the adoption of criteria to help guide the courts to the restriction or complete removal of the defence of reasonable chastisement) and posed a series of questions. Responses were requested by 31 January 2002 and just over 1700 people replied, either as individuals or as part of a group.

The purpose of this Paper is to provide an analysis of those replies. Please note, however, that this Paper does not rehearse the full contents of the Consultation Paper, which can be viewed on the Office's website at www.olrni.gov.uk.

The Consultation Process

The Office employed a number of consultation methods and engaged with a broad range of people, including parents, carers, children and young people and professionals.

The full Consultation Paper and a separate executive summary were distributed to interested bodies and members of the public. In addition, versions written in a style and language that was accessible to children and young people were circulated and a specially designed e-consultation site was launched.

The issues were also explored face-to-face in focus groups in Belfast and Londonderry and directly with children in group exercises.

The Office would like to record its gratitude to all those who took the time to consider the issues and contribute to the discussion. This is the largest consultation exercise that the Office has undertaken, reflecting the interest in, and importance of, the subject matter.

General Consultation

Who responded?

Individual Responses

These have been divided into the following categories:

1. General public – adults who took the initiative and responded in their own words, based upon their personal opinions and experience.
2. Children who presented their own submissions.
3. Standard letters – individuals who signed a standard form letter that reflected a particular point of view, usually Biblical. These sometimes took the form of a petition.

Politicians and Political Organisations

A Councillor, 2 MLAs, the Democratic Unionist Party and the Northern Ireland Women's Coalition.

Child Care/Medical Organisations

Barnardo's Northern Ireland, Barnardo's Parenting Matters Project, British Association of Social Workers, British Association for the Study and Prevention of Child Abuse and Neglect, Carlisle House, Charis Consultancy Services, Child Care NI, ChildLine Northern Ireland, Community Practitioners and Health Visitors Association NI, Contact Youth, Disability Action, Down Lisburn Trust, Eastern Health and Social Services Board, Foyle Daycare Limited, G-old Sure Start, Homefirst Community Trust, Lifestart Foundation, National Children's Homes, National Deaf Children's Society, National Early Years Network, Northern Area Child Protection Committee, North and West Belfast District Childcare Partnership, North and West Belfast Health and Social Services Trust, Northern Health and Social Services Board, Northern Ireland Childminding Association, Northern Ireland Children's Hospice, Northern Ireland Foster Care Association, Northern Ireland Guardian Ad Litem Agency, Nursing and Midwifery Advisory Group, NSPCC, PlayBoard, the Royal College of Paediatrics and Child Health, Save the Children, Southern Health and Social Services Board (on behalf of the

Southern Area Child Protection Committee, Armagh and Dungannon Trust Child Protection Panel, Newry and Mourne Trust Child Protection Panel, Craigavon and Banbridge Trust Child Protection Panel and Children's and Young Person's Committee), Twins and Multiple Births Association, Ulster Community and Hospitals Trust, Unicorn Consultancy and Western Area Child Protection Committee (Policy and Procedures Sub-Group).

Educational/Youth Organisations

The Catholic Guides of Ireland, Clogher Valley Independent Christian School, Nucleus, YouthAction Northern Ireland, Youth Council for Northern Ireland and the Youth Forum.

Parents' Organisations

Families First, the National Family and Parenting Institute, Newpin, the Parents Advice Centre, the Parenting Forum NI and Positive Parenting NI.

Criminal Justice System

The Legal Services Branch of the Royal Ulster Constabulary (now PS(NI)).

Legal Organisations

The Criminal Bar Association and the Law Reform Advisory Committee for Northern Ireland.

Civic Organisations, Voluntary Organisations and Trade Unions

Ards Borough Council, Business and Professional Women UK Limited, the Children's Law Centre, Committee on the Administration of Justice (CAJ), Craigavon Borough Council, Democratic Dialogue, Down District Council, Equality Commission for Northern Ireland, Institute for Conflict Research, Northern Ireland Committee of the Irish Congress of Trade Unions (ICTU), Northern Ireland Council for Voluntary Action, Northern Ireland Human Rights Commission, Northern Ireland Women's European Platform, Northern Ireland Women's Aid Federation, One World Centre, Vine Centre Limited and the Women's Information Group.

Campaigns

The Children's Rights Alliance for England, Children are Unbeatable! (A submission was also received from the Children are Unbeatable! Alliance in Scotland and 'Sdim Curo Plant!/Children are Unbeatable! Cymru) and EPOCH (End Physical Punishment of Children).

Religious Organisations

All Saints Parish Church, the Association of Baptist Churches in Ireland, CARE, Castledawson and Curran Presbyterian Churches, the Christian Institute, the Church of Ireland Board for Social Responsibility, the Churches Network on Non-violence, the Columba Community, Cookstown Independent Methodist Church, the Covenant Protestant Reformed Church (in Northern Ireland), Dungannon Independent Methodist Church, Enniskillen Independent Methodist Church, Finaghy Evangelical Presbyterian Church, the Government and Morals Committee of the Free Presbyterian Church of Ulster, Grace Free Presbyterian Church, John Knox Memorial Free Presbyterian Church, Largy Presbyterian Church, Larne Christian Fellowship, Magheramorne Presbyterian Church, Moira Baptist Church, the Presbyterian Church in Ireland, the Presbyterian Church in Ireland (Newry Presbytery), the Public Morals Committee of the Congregational Union of Ireland, the Public Morals Committee of the Evangelical Presbyterian Church, the Public Morals Committee of the Fellowship of Independent Methodist Churches, the Reformed Presbyterian Church of Ireland, the Society for the Promotion of Reformation in Government, Toberkeigh Presbyterian Church, the Ulster Quaker Service Committee and WP Nicholson Memorial Free Presbyterian Church.

The following table records the number of responses received in each of the above categories:—

Response from-	Number of responses
General public	749
Children	11
Standard letters	833
Politicians and political organisations	5
Child care/ medical organisations	38
Educational/ youth organisations	6
Parents' organisations	6
Criminal justice system	1
Legal organisations	2
Civic organisations, voluntary organisations and trade unions	17
Campaigns	4
Religious organisations	30

WHAT DID THEY SAY?

The Consultation Paper posed a number of questions and invited comment on several issues. However, in most of the responses, many of the questions were not addressed in any depth, or at all. Questions 3, 4 and 11 received the most developed arguments and may, therefore, be regarded as key. The questions/invitations to comment are set out below, together with a cross section of the responses.

1. What is the goal of effective discipline of children?

General Public

A number of common themes emerged in the individual responses to this question, the most prevalent being obedience, respect for others, self-control and acceptance of responsibility.

A Methodist minister stated that the aim was to “set boundaries for children, to keep them safe and to teach them to be obedient to their parents.”

Other stated aims were –

“To permanently alter the child’s behaviour through the loving application of discipline.”

“To help protect children from danger, to help them to mature into responsible and self-controlled adults and to learn the difference between appropriate and inappropriate behaviour.”

“To demonstrate the total unacceptability of rebellious and obdurate behaviour.”

“To bring immature children to maturity and to send them out of the domestic circle able to stand in life to the glory of God and the good of society, fully equipped to face the totality of life’s responsibilities within an ethical framework.”

“To allow us to be able to enjoy our children and to allow our children to grow to become well-rounded and responsible adults. Effective discipline will also teach our children that violence towards anyone has no place in our society and that they must learn to negotiate their way through any disagreements or difficulties they encounter in life.”

Many responses emphasised the context in which discipline must take place and identified love as a motivating factor.

Standard Letters

The standard form letters cited Biblical references that reflected the importance of teaching right from wrong. Some emphasised the need to develop accepted standards of behaviour and values, such as kindness, honesty, respect and self-discipline.

Child Care/Medical Organisations

Barnardo’s thought that effective discipline would “ enable [children] to learn how to set acceptable boundaries on their own behaviour in line with their age and stage of development... [and] to grow into adulthood, having taken responsibility for their own behaviour and its consequences for others.”

Save the Children endorsed the goals set out in chapter 3 of the Consultation Paper and added a further goal –

“[To] teach children and young people how to express their emotions and articulate their own views. This is particularly important where the child’s definition of unacceptable behaviour differs from that of their parents and it is necessary to negotiate limits acceptable to all.”

The **Lifestart Foundation** felt that the definition of physical punishment should encompass both physical pain and discomfort and added that the focus of discipline should be growth and development, rather than punishment for misbehaviour.

The **Ulster Community and Hospitals Trust** sought to distinguish discipline from physical punishment, preferring the term “effective parenting”, which included–

- the recognition and reinforcement of appropriate behaviour;
- enabling children to understand why certain behaviour is inappropriate;
- setting clear boundaries;
- enabling independence and responsibility in children; and
- providing a value base of respect and self-respect.

Parents’ Organisations

The **Parents’ Advice Centre** stated that “effective discipline is evident when children develop skills, knowledge about ability to exist within the accepted social parameters and are able to develop standards and values which respect the diversity and the culture in which they live.”

2. What are the ways in which this goal is achieved?

General Public

Many people stressed the importance of a strong loving relationship, praise and encouragement, consistency, clear and repeated explanations of why certain behaviour is dangerous or damaging and a range of sanctions, including reasonable physical punishment, which should be carried out in a controlled manner and related to specific actions.

This approach was summed up by one respondent who stated that “...a loving and trusting relationship is the key. Along with praise, positive reinforcement, consistent expectations etc., smacking in the proper and controlled context is valuable and appropriate for most children.”

However, others rejected the use of physical punishment and this view was reflected in the words of a **community paediatrician** who wrote –

“I believe that children respond best to positive encouragement and praise. When discipline is required I believe it should be about teaching children the consequences of their actions and enabling them to work out right from wrong and not about violence.”

Many recommended following the word of God. However, again there were two schools of thought, with some seeing physical punishment as an essential and God-given element of an effective discipline strategy, but others emphasising the importance of love. One **Christian minister** declared –

“ I believe it is the duty of parents to behave responsibly towards their children, to discipline them in an atmosphere of love, but not of physical punishment. I believe that love is the most fundamental Biblical principle of all.”

Another person stressed the importance of understanding the reasons for the child’s behaviour, reflecting upon the interaction between parent and child, giving less attention to bad behaviour than good, setting limits and ensuring children learn from consequences.

Standard Letters

The standard form letters advocated the use of physical punishment, citing three particular Biblical passages in support:

“ He that spareth his rod hateth his son: but he that loveth him chasteneth him betimes.” Proverbs 13 v. 24

“Foolishness is bound in the heart of the child; but the rod of correction shall drive it far from him.” Proverbs 22 v.15

“Withhold not correction from the child: for if thou beatest him with the rod, he shall not die. Thou shalt beat him with the rod, and shalt deliver his soul from hell.” Proverbs 23 v. 13 – 14

One letter stressed the importance of order, unity and security in the home.

Parents’ Organisations

The **Parents’ Advice Centre**, which has a wealth of experience in helping parents with discipline problems, felt that effective parenting was underpinned by the following principles –

“consistency, negotiation, compromise, consequences, appropriate balance between praise and punishment and relating expectations to the age and understanding of the child”.

It also felt that “parents should strive for obedience through love and respect, not fear and threats/conflict” and emphasised the importance of parent and child listening to each other and discussing their problems.

Child Care/Medical Organisations

Barnardo’s Parenting Matters Project stated that the key to effective discipline “is a positive relationship between the adult and the child”. It felt that that relationship could “easily be damaged by physical punishment” and went on to say that, if a child is consistently praised, encouraged and shown affection, “the need for any sort of punishment decreases significantly.”

Barnardo’s highlighted alternatives to physical punishment that had been suggested by parents attending parenting courses (e.g. reasoning or sending a child to his or her room). Those parents had also suggested “giving choices, staying calm, preventing crisis before it happens ... and having clear rules.”

The **Community Practitioners and Health Visitors Association** recommended good parental example, praising and giving attention when children behave well, ignoring minor misdemeanours, distracting children when they are misbehaving and using other forms of discipline, including taking away privileges (e.g. withholding pocket money, not allowing the viewing of favourite programmes on television or removing games/toys).

The **Nursing and Midwifery Advisory Group** stated that “the issue of physical punishment has to be seen in its wider context of parenting and the support that society needs to give to children and families.” It advocated a public health approach, support for parents and help in using “positive methods of discipline”.

Child Care NI emphasised the need for a “nurturing and supportive” parent/child relationship and saw no place for physical punishment in that relationship. It also stressed the need for the parenting role to be “more highly valued by society”.

Save the Children's consultation with children found that over half supported strategies, such as grounding, sending to bed or to their room or the withdrawal of treats (e.g. TV, play stations, sweets etc.), as a way of responding to unacceptable behaviour. It also found that parents and professionals had many effective ideas on how to discipline children, without recourse to smacking.

The Royal College of Paediatrics and Child Health proposed the three vital elements of an effective discipline policy–

- a learning environment characterised by a positive, supportive parent/ child relationship;
- a strategy for systematic teaching and strengthening of desired behaviours; and
- a strategy for decreasing or eliminating undesired or ineffective behaviours.

It acknowledged that parents would need education and support to bring up children within such a framework.

The Ulster Community and Hospitals Trust felt that parents should –

- model appropriate behaviour;
- adopt a consistent attitude;
- lay down ground rules;
- communicate well; and
- use both sanctions and rewards, with the emphasis on praise and reward for positive behaviour.

Campaigns

Children are Unbeatable rejected physical punishment, declaring that “the goal of effective discipline is best met without recourse to the use of violence.”

3. In the light of the evidence and your experience, do you think that physical punishment by parents is an effective form of discipline? Please give reasons for your view.

General Public

Individuals tended to answer this question in the affirmative and by reference to personal experience, both as a child and parent.

One person commended physical punishment, declaring “I never doubted that my parents loved me and wanted the best for me – even when my bottom or legs were red and stinging.”

Many saw physical punishment as both an immediate and appropriate response to unacceptable behaviour. The implications of other forms of discipline were also raised, the suggestion being that “a sore backside is infinitely easier to get over than a constant barrage of verbal disagreements, sarcasm, ridicule, “put-downs”, threats and prolonged alternatives, such as ‘grounding’.”

The inability of young children to understand reasoned argument was highlighted, with one person asking –

“How can you reason with a 3 year old who wants more sweets than is good for him and then decides to throw a temper tantrum?”

Another person suggested that children who experience physical punishment as a method of discipline are “more pleasant, courteous, respectful and obedient to simple commands. They have greater social skills, interact with others in a more caring, thoughtful manner and do not involve themselves in bullying.”

However, a Christian after-school worker held a contrary view, asserting that “the children who often exhibit the worst behavioural problems are the ones who receive a ‘cuff round the ear’ ”. This view was endorsed by another person who works with children, who stated –

“The most disruptive children I know are frequently smacked, indeed often beaten, but I see little change in their behaviour, in fact it deteriorates as their self-worth deteriorates and with it their respect for others.”

Inevitably, both sides of the debate challenged the use, or absence, of physical punishment. One teacher, felt that the abolition of caning in schools had not made schools less violent. However, another person felt that “corporal punishment in the past ha[d] done little to educate the adults of today of acceptable behaviour.”

Personal testimonies revealed unhappy and painful experiences –

“When I was growing up I thought that it was ‘normal’ to be smacked or kicked or punched as a punishment, because I was made to feel that I deserved it for whatever it was I did. Even the silliest of mistakes resulted in this form of punishment. It did not make me want to behave better or to try and construct a perfect flawless self. More than anything the only effect physical punishment had on me was to make me hard and laugh as I was being hit with belts or fishing rods.”

“As a child I grew up with violence in the home. Violence was used by my parents on me, my brothers, and sisters. All violence taught me was that I wasn’t good enough or smart enough. It has taken me a long time to get where I am today. I don’t believe in violence. It can rob a child of their true identity.”

“I have seen my grandchildren suffer from an abusive son-in-law, who was badly treated as a child and knew only how to punish, never talk, listen or reward.”

However, there were positive outcomes and one person, who recounted how she was caned as a child and the negative impact this had had on her, went on to say that her father now regretted his actions and had apologised to her.

The shift in generational attitudes was also revealed, with one grandmother disclosing that she had initially disapproved of her son’s decision not to smack his children, but had now realised that he did “have the right approach – and it does work!”.

Children

The responses from children reflected the opposing views. One **10 year old** commented –

“People who get hit as a child will think it would be right to hit other people. Being hit doesn’t make you not do it again – it just makes you angry with your parents and self pitying and hurt.”

However, in contrast, **a 7 year old** declared that children should be smacked “because God gave children into parents’ hands and it says to smack them in the Bible.”

Standard Letters

One reply suggested that physical punishment was effective because it relates “the sanction to the action and not to the relationship.” Such punishment was also seen as a quick and effective way of showing children why a particular action is not acceptable –

“A smack at the time of the offence not only deters the immediate wrong but memory of it will deter future wrong doings.”

In line with the “general responses”, it was suggested that “drawn out” punishments, such as stopping treats or being sent to the bedroom, could cause greater damage.

A number of the standard form letters linked the decline in physical punishment to an increase in crime and immorality. One also suggested that there was a direct link to terrorism (including the tragedy of September 11).

One couple attested to the positive impact of physical punishment, saying–

“We have never seen physical punishment fail, as long as it is backed by parental unity and an atmosphere of love and trust.”

Parents’ Organisations

Parents’ organisations were largely opposed to physical punishment. **The Parents’ Advice Centre** stated that –

“Smacking or hitting focuses children on the anger that the parent is feeling, removing them from the reason for the chastisement. So often children remember the hurt, the pain, the humiliation of being hit, but are confused or unclear as to the reason. Smacking destroys trust between parent and child.”

The Centre added that parents had repeatedly acknowledged that hitting didn't work: "I give him a slap but he continues to do it".

The **National Family and Parenting Institute** commissioned a comprehensive review of research into child discipline and said that the weight of research evidence showed that:

- children need parental influence in developing good behaviour;
- parental discipline practices cannot be separated from overall parental style;
- the most effective style of managing children's behaviour is "authoritative" – permissive, neglectful, and authoritarian styles are associated with poorer outcomes for children;
- coercive discipline – whether it is physical, verbal or indirect (through threatening behaviour and looks) – is ineffective in raising children to take responsibility for their own behaviour;
- there is a higher likelihood that children who are hit will become victims of physical abuse;
- if smacking is used in the absence of other methods of discipline, a cycle of rebellious behaviour, followed by increasing coercion, may be established, to the point that children become "out of control";
- a very high proportion of children in the UK (around 15%) are subject to one-off or regular episodes of very severe punishment which would contravene the law as it stands;
- many children who are assaulted and who witness violence – mostly never coming to the attention of social services – may suffer long term consequences, associated as much with the emotional and psychological impact as the physical impact of the assaults;
- most coercive discipline emerges from parental stress;
- there is no research evidence that light smacking or tapping in the context of a loving relationship damages children;
- most parents do not wish, or think it right, to smack;
- most children think it wrong to be smacked;
- there are plenty of other ways of managing children's behaviour successfully;
- many parents wish to have other techniques for managing their children's behaviour.

Newpin presented a negative view of physical punishment, saying –

“The families we work with all experienced physical punishment as children. They present with many issues relating to depression, anxiety, behavioural difficulties with their children, substance abuse, etc. At the core of these difficulties are poor attachment relationships with their own parents, particularly mother, and subsequent poor attachment difficulties with their own children. Lack of clear boundaries, or indeed strict discipline, has left them ill equipped to face the challenge of parenting.”

However, **Families First** took a different stance and, having referred to Baumrind’s study spanning three decades, endorsed her conclusion that–

“What really matters is the child-rearing context. When parents are loving and firm and communicate well with the child, the children were exceptionally competent and well-adjusted, whether or not their parents spanked them as pre-schoolers.”

Child Care/Medical Organisations

The childcare organisations registered strong opposition to the use of physical punishment.

Save the Children brought an international dimension to the debate, stating–

“In every country we work in, children and young people have similar things to say about physical punishment: it hurts them both physically and emotionally, it makes it difficult to learn and it is humiliating.”

The organisation concluded that “the weight of evidence is overwhelming that physical punishment of children is not an effective discipline strategy, that it harms children’s emotional and cognitive development and that it increases violent, aggressive and anti-social behaviour in young people and adults.”

It also reported that its own research had revealed that the vast majority of children thought smacking was wrong and that children respond negatively to being smacked. The link between smacking and parental anger was also raised, reflecting research by Durrant (1994) and Straus (1996).

Children’s Express cited a survey of 100 young people (aged 7 to 18) that it had conducted in Northern Ireland. 80% of the children said that smacking was a bad method of discipline, 67% said it made them feel angry and 42% said they would feel like taking it out on someone else if they were smacked.

Barnardo’s stated that its experience had led it to conclude that physical punishment is an ineffective form of discipline and dangerous to the child. It also cited research that shows that children who are smacked, and particularly those who experience harsh physical punishment, are more likely to have behavioural problems and more likely to be aggressive and develop emotional and mental health problems (Sears R et al “The Sources of Aggression in the Home (1974), Durant RH et al “Exposure to Violence and Victimization and Depression, Hopelessness and Purpose in Life Among Adolescents Living in and Around Public Housing (1995)).

Barnardo’s Parenting Matters Project echoed these views, again citing a range of research projects.

Research had played a pivotal role in **Child Care NI’s** approach, leading it to declare that “hitting children does not work. It is a dangerous practice, which can cause physical and psychological injury and even death.” The organisation went on to say that physical punishment had been identified by research as “a significant factor in the development of violent attitudes and behaviour, both in childhood and later life.”

The **NSPCC** raised Leddy’s (2001) argument that smacking does not tend to be associated with a positive learning experience in which a child is helped to develop its conscience, become more empathetic or internalise moral values. It also highlighted research that associated the following negative outcomes with physical punishment –

- lower cognitive development and IQ scores;
- the development of violent behaviours and attitudes; and
- the onset of delinquency.

The **NSPCC’s** own research found that 69% of the people surveyed had found other methods of discipline more effective than smacking.

The **Northern Area Child Protection Committee** noted that over half of the children surveyed by Save the Children used the word “bad” to describe children who are smacked and suggested that there was clear evidence that children who think of themselves as “bad” act accordingly, while children who think of themselves as basically good are more likely to be confident and behave appropriately.

Down Lisburn Trust suggested that physical punishment was ineffective “because it does not assist in encouraging children to internalise acceptable values or to take responsibility for their own behaviour and does not improve children’s long - term behaviour.”

Civic Organisations, Voluntary Organisations and Trade Unions

The **ICTU** acknowledged the contradiction in telling children that hitting is wrong and then punishing them by smacking.

The **British Association of Social Workers** cited Durrant’s study (1999), which found that, after the ban on parental corporal punishment in Sweden, deaths of children at parents’ hands fell from one per year to one in seven years (compared to one per week in the UK). Other submissions countered this with a suggestion that, in Sweden, there had been a 489% increase in criminal assaults against children between 1981 and 1994 (Larzelere). However, this was challenged by Durrant, who maintained that the increase was due to heightened public awareness of the problem, that the figures referred to all assaults, not just those perpetrated by parents, and that the rate of serious assaults against children was extremely and constantly low.

The **Northern Ireland Women’s Aid Federation** felt that “[c]hanging the culture and ending the concept of ‘an acceptable level of violence’ would make a significant contribution to the prevention of bullying of children by other children and violence in the home.”

Campaigns

Children are Unbeatable! Alliance in Scotland quoted research by Kalmus (1984), who found that experiencing physical punishment as a teenager more than doubled the probability of spousal violence in later life.

Religious Organisations

The Presbyterian Church suggested that physical punishment was effective “when carried out through genuine love for the child and not in anger at the child.”

The Finaghy Evangelical Presbyterian Church drew a clear distinction between smacking and hitting/thumping. In its view, smacking was an effective form of punishment, which could strengthen the relationship between parent and child.

The Society for the Promotion of Reformation in Government expressed scepticism over the objectivity and reliability of scientific studies.

The Church of Ireland Board for Social Responsibility looked to Collossions 3 v.20, which states –

“Fathers do not over-correct your children, or they will grow up feeling inferior and frustrated”.

In its view, over-corrected children would not grow up to be good parents, neighbours or citizens.

The following table summarises the response to the third question, showing a clear split in opinion between individual respondents and public organisations.

Response from -	Yes	No
General public	331	43
Children	3	1
Standard letters	451	
Politicians and political organisations	4	1
Childcare/medical organisations		32
Educational/Youth organisations		2
Parents’ organisations	1	4

Civic organisations, voluntary organisations and trade unions		10
Campaigns		4
Religious organisations	12	2

4. In the light of the evidence and your experience, do you think that physical punishment by parents is an acceptable form of discipline? Please give reasons for your view.

General Public

There was support for the view that “chastisement is a necessary requirement within the Judaeo-Christian religion.” Many felt that physical punishment was rooted in the Bible and had been used “very effectively over many centuries.” Several respondents also stated that public opinion should never over-rule the word of God.

However, a **Presbyterian Minister** challenged the notion that Christian parents had a moral obligation to physically punish their children. He noted that, in the ancient Biblical world, physical punishment extended to execution for disobedience and he contended that the references in the Book of Proverbs to such punishment were simply wise sayings and not universally applied laws. He also interpreted the word “rod” as a metaphor for a parent’s general duty to discipline (i.e. not necessarily by physical means). He went on to say that the New Testament reflected the moral value that Jesus gave children and the consequent need to protect them from mistreatment.

This approach was echoed by another person, who suggested that the word “rod” could be interpreted in a number of ways and should not necessarily be seen as an exhortation to smack. That person also noted that Jesus had emphasised the twin virtues of forgiveness and mercy.

The duty to protect was re-iterated by another respondent, who asked –

“How can we as Christians teach respect to the most impressionable in our society if we don’t show respect to them by example? How can we teach children that it is wrong to bully if we as adults smack those so much weaker than ourselves, simply impose our will upon them? This cannot be right.”

However, those endorsing the use of physical punishment relied on the “practice of the majority” argument and emphasised the difference between smacking and physical abuse: “[it] must be administered in such a manner that no lasting hurt is caused and applied to an area where no damage can be done.”

Some felt that physical punishment should have a place in the disciplinary regime, but should not be the only or first form of discipline used. Again, the consequences of the alternatives were raised: “Why is a physical smack considered so much worse than the emotional deprivation of exclusion?”

Once more, personal testimonies were used to register opposition. One man wrote –

“I have seen the impact on confidence that this type of punishment can have and, as a young child, I also had been physically punished, which I have found to be extremely distressing.”

One woman related how her husband had suffered and the lasting effects he had endured –

“My husband’s father “boxed” his ears when he was a child and this has damaged his hearing. It is not possible to find an acceptable level of violence, so all violence should be stopped.”

Another stated that “a good smack only reminds a child that when someone does something “wrong” you address it with violence.....PS Could someone define a good smack, a little tap or a slap?”

The long-term benefits of a non-violent approach were extolled by a **Christian after schools worker** who said –

“In order to promote non-violence we need to start within the home, if children see parents using other methods of discipline and control, then they will learn other ways of dealing with problems they face themselves.”

Another woman advocated the alternatives and asked that consideration be given to the child’s feelings –

“I am certainly not one to criticise a parent/carer who smacks a child or label them in any way. I just want to promote the fact that alternatives to

smacking do exist and do work. Youngsters have feelings too – we must respond to them and nurture them. It is hard to stand back and see an adult hit a child.”

The need to empathise with children was raised by a number of other respondents and summed up by one teacher, who wrote –

“Please consider how you would feel if someone was to hit you every time you did something wrong. Now think how a child feels – they have less understanding of what is going on and not only can it lead to physical injury, but also to psychological problems.”

A woman reflected the view of many parents who have resorted to, but quickly regretted using, physical punishment –

“I can remember, in anger and frustration, smacking my son when he was very small. The look of bewilderment on his face and his desolation on being hurt by the person supposed to love him has remained with me.”

Another woman explored the issue with her children before registering her opposition to physical punishment –

“I don’t understand why it is still acceptable for parents to hit children. When I talked to my children about this, they were horrified that we might hit them and could not understand why any parent would want to hurt their child in that way.”

Some felt that physical punishment was simply a product of parental stress. One woman, who had been physically punished as a child and who warned against escalating violence, believed that the stress felt by her parents determined the severity of the punishment, rather than the alleged misdemeanour.

Children

Again, responses from children fell on either side of the divide. One **6 year old** declared –

“I don’t think parents should smack – would they like it if someone smacked them?”

However, a **12 year old** rejected the possibility of “ring-fencing” younger children, saying –

“I don’t agree with parents not being able to smack their children under three years old. I think loving parents should be able to decide for themselves when their child needs to be smacked. Children under three can be very hard to reason with.”

The need to set a positive example was highlighted by one child with disabilities, who said –

“We do not allow anyone to hit anyone in this house and I think this is right. My Mum has hit me once or twice when she was very busy and angry with me. I think that’s a very bad example to me when she tells me not to hit my friends or people in my class at school. She said sorry afterwards and got me to tell my Dad on her, which I did, so he could tell her off.”

Standard Letters

Again, Biblical authority was the most frequently cited argument in support of physical punishment. Reference was also made to a survey by the Office of National Statistics (1998), in which 88% of those questioned said smacking was sometimes necessary.

One respondent testified to the absence of any long-lasting effects from physical punishment and the benefits from a personal development perspective.

It was also suggested that the physical punishment option would offset the need for “shouting, ridicule, or emotionally damaging methods of discipline.”

Child Care/Medical Organisations

Barnardo’s referred to research that shows that physical punishment “tends to increase in frequency and intensity over time and can get out of control and lead to beatings and abuse” (Leach 1997). However, a number of submissions challenged that research, quoting Eysenck, who had described it as “not acceptable scientifically.”

Barnardo's also suggested that the acceptability of physical punishment among parents, particularly younger parents, was diminishing and that there was "an opportunity to move forward in a positive way, for both parents and children."

The **NSPCC** echoed Barnardo's concern about escalating violence and cited research that suggested that the frequency and severity of punishment could increase if parents start smacking babies by the age of one (Newson and Newson 1989). It also highlighted the risk of causing brain damage, disability and even death.

Down Lisburn Trust also rejected physical punishment "because of its in-built risk of escalation and because of its association with the development of violent attitudes and ideas by children, who often model their own behaviour on that of their parents."

Disability Action felt that society should "remove all those things which encourage violence and physical assault to be seen as the norm."

Save the Children consulted with 189 children and reported that, "the words we use to describe physical punishment all downplay the reality that we are inflicting pain on our children when we 'smack' them. A 'smack', 'slap', 'tap', 'cuff' are adult euphemisms for when we hit children". It went on to say the children used negative expressions to describe their emotions, with 4 out of 5 children feeling sad or unloved after being smacked.

ChildLine Northern Ireland revealed that many of the children who called its help line complained of physical abuse that was likely to come under the umbrella of "reasonable chastisement". The organisation stated that the children did not see the punishment as "reasonable" and noted that it had made them feel "sad", "depressed" and "worried".

Civic Organisations, Voluntary Organisations and Trade Unions

The **ICTU** perceived corporal punishment as a form of physical and mental violence, which violated a child's physical and personal integrity and was, therefore, wrong.

The **Northern Ireland Women's Aid Federation** noted that smacks to the head could result in perforated eardrums and black eyes, whilst smacks to the lower back could cause damage to the vital organs.

Educational/Youth Organisations

YouthAction reiterated the concern that physical punishment was a significant factor in the development of violent behaviour and declared that a change in the law would “help promote a concept of zero tolerance, give a clear message as to what is or is not acceptable behaviour by adults and make children feel safer.”

Campaigns

Children are Unbeatable labelled physical punishment a totally unacceptable form of discipline and suggested that the overwhelming majority of child-care experts did not regard physical punishment as an acceptable method of discipline.

Religious Organisations

The **Churches Network on Non-violence** felt that it was morally indefensible for religious groups to advocate the use of corporal punishment for 21st Century children, based on writings from 180BC. It concluded that there was “no authority for physical punishment of children in the Gospels of the New Testament, which is the foundation of Christianity.”

However, the **Association of Baptist Churches in Ireland** distinguished violence or abuse from physical punishment. For it, “physical punishment is ... moderate, justified by the higher overall goal of the development of the child and...[set] in the context of a long-term, loving relationship”.

The following table records the responses to the acceptability issue, once again revealing a deep-seated division between individual respondents and public organisations.

Response from-	Yes	No
General public	397	59
Children	3	2
Standard letters	484	
Politicians and political organisations	4	1

Child care/medical organisations		34
Educational/youth organisations		3
Parents' organisations	1	4
Legal organisations		1
Civic organisations, voluntary organisations and trade unions		11
Campaigns		4
Religious organisations	13	2

5. If you are a parent, please tell us about the people or organisations who have been most helpful to you in helping you deal with any discipline problems you have faced.

General Public

One **Methodist minister** found Biblical principles “profoundly helpful” and recommended “Dare to Discipline” by Dr James Dobson. “The Strong-willed Child”, also by Dr Dobson, and JC Ryle’s “The Duties of Parents” were mentioned by others.

It was revealed that family, friends, the Bible and the local church had all had a role and one woman paid specific tribute to her mother, saying –

“She always sat us down, told us why she was upset and how disappointed she was with us. How she was doing her best for us, showed us the consequences of our actions if we continued to take that course. She, in other words, appealed to our softer side and by the time she finished we usually cried and apologised.”

6. In your view, what services (whether provided by the private, public or voluntary sectors) are, or would be, most useful in helping parents to deal effectively with discipline issues?

General Public

For many, a network of grandparents and other known and respected parents provides invaluable assistance and support.

One submission described a personal experience of parenting classes in positive terms and said they should be more widely available –

“With support from a variety of organisations e.g. Parents Advice Centre, parents can change the way they discipline children, creating greater harmony, an atmosphere of accepting responsibility, instead of blame and punishment, and an ability to compromise.”

The role of Christian organisations was also recognised.

It was suggested that the issues could be explored in ante-natal classes. However, even here there was a division of opinion, with some saying that healthcare professionals should be more pro-active and others questioning the ability of social workers or health visitors to provide meaningful input.

A number of respondents felt that the State should have a limited role on the disciplinary side. This view was reflected by the person who said “the State has no remit or right to interfere in this issue, other than to defend children from domestic or any other kind of cruelty and to uphold the parents’ right to smack.”

Parents’ Organisations

The **Parents’ Advice Centre** emphasised the importance of legal reform, coupled with adequate support for parents. Otherwise, it felt parents would become secretive, feel guilty and worry about ending up in court, none of which are “in the best interests of the child nor indeed of family life.”

Child Care/Medical Organisations

Barnardo's, which provides a variety of support services to parents and families, felt that such services should be more widely recognised and that the stigma associated with requests for support should be removed. In its experience, parents could examine and, where necessary, modify their own behaviour.

The support provided by the NSPCC, Delta, Newpin, SureStart, Health Visitors, Practice Nurses, GPs, Community Paediatricians, Family Centres, school counselling, child and adolescent mental health services, NIPPA and child and family services were all mentioned.

The **Northern Health and Social Services Board** reported that parents who had contributed to the Family Support Outcome Study (jointly commissioned by NHSSB and Homestart (1999)) had placed a high value on one-to-one support in the family home. The ability to self refer, the absence of stigma and the fact that the volunteers were carefully chosen parents, who were down to earth, were all seen as positive factors.

Civic Organisations, Voluntary Organisations and Trade Unions

The **ICTU** recommended-

- structured support programmes for parents, including one-to-one support;
- family support programmes;
- on-going support, following completion of programmes; and
- helplines.

Educational/Youth Organisations

YouthAction advocated a broad programme of education, which would include information on parents' rights and duties. It suggested that such information should be disseminated by health professionals and education providers, through health clinics and schools. It also called for additional opportunities for children and young people to "explore parenting for themselves" and for the promotion of effective methods of discipline.

The **Youth Council** recognised that parenting skills were fundamental and suggested that they “be developed, ideally commencing, in an appropriate manner, within the school and youth service curriculum”. It also recognised the need for a co-ordinated approach and suggested that this could be pursued in the context of the proposed children and young people’s strategy, which is currently being developed.

Campaigns

Children are Unbeatable felt that suitable support could help to persuade parents that physical punishment is not acceptable and not in the best interests of their children.

Religious Organisations

The **Church of Ireland Board for Social Responsibility (NI)** endorsed the work of the Mothers’ Union Parenting 2000 and Parents and Kids Together (PAKT).

Again, personal convictions came to the fore and the **Society for the Promotion of Reformation in Government** suggested that –

“Those agencies and individuals who reject the fundamental basis of Christian discipline, including the innate tendency of the human heart to evil and the necessity of physical correction, are clearly incompetent to guide Christians in the matter.”

7. What more needs to be done to ensure that all parents have access to these services?

General Public

One parent described how a parenting course had influenced her approach and how locating the course had been far from easy –

“When my first child was small, smacking was the only form of discipline that I was aware of. My sister in London told me about parenting courses and, with great difficulty and many phone calls, I managed to track one down. It was run by Eileen Lynch who is employed by Barnardo’s. This course was a life changing experience for me!”

One man recognised the pressures many parents are under and acknowledged that they need help to avoid the excessive punishment of their children.

Child Care/Medical Organisations

Barnardo's felt that support and education should be provided until a child reaches adulthood. In its view, the Department of Health, Social Services and Public Safety should take the lead and develop a comprehensive strategy "as part of the Department's contribution to the Children's Strategy." It also emphasised the importance of reaching marginalised groups, such as the travelling community, lone parents (especially men) and parents of children with disabilities.

Other measures it suggested were –

- ensuring that parenting and discipline becomes part of the school curriculum;
- including parental discipline in ante-natal education programmes and highlighting the dangers of shaking and smacking babies;
- improving pre-school provision;
- the promotion of positive discipline by health visitors; and
- advertising/providing information on sources of help.

The comments with regard to marginalized groups were echoed by **Disability Action**, which referred to the lack of education programmes for parents of children with disabilities.

The ongoing demands of parenthood were reiterated by **Child Care NI**, which called on the Government to disseminate research on child development and advocated –

- building parental confidence;
- continuing support throughout the life of the child;
- easy access to safe places to discuss challenges;
- clear guidelines to all those working with children; and
- public education programmes and the promotion of non-violence.

The **Northern Ireland Foster Care Association** suggested that there should be more statutory provision for parenting programmes and that all parents should receive an information booklet after the birth of their baby, such as “Getting Positive about Discipline” by Barnardo’s and the Early Years Network.

Save the Children examined service provision and found that, in many areas, parent support services simply aren’t available. In its view, the programmes on offer display a limited recognition of certain issues, including race and gender. Save the Children’s research also revealed that parents and professionals prefer the term “support programmes for parents”, rather than “parenting classes”, which is seen as unhelpful and suggestive of criticism.

The **Eastern Health and Social Services Board** recognised the value of the voluntary sector and advocated –

- accessible, flexible and inclusive parenting programmes;
- information and advice from health visitors;
- child psychology programmes; and
- a co-ordinated strategy between all Government Departments.

Civic Organisations, Voluntary Organisations and Trade Unions

The **ICTU** proposed –

- easy access to information and support;
- publicity on what is on offer;
- materials in languages other than English;
- childcare services to facilitate access to courses;
- improved access for parents with a disability;
- addressing the needs of the traveller community and ethnic minorities; and
- more resources to develop long-term support programmes for parents.

Campaigns

Children are Unbeatable argued for –

- a clear pathway to, and State resources for, support services;
- a non-stigmatising atmosphere;

- the promotion of non-violent methods of discipline; and
- the distribution of information on children’s rights.

Religious Organisations

Finaghy Evangelical Presbyterian Church acknowledged that parents, education providers and social services should work together to address severe discipline problems. However, it expressed concern about the increasing tendency of the State to assume “more and more responsibilities which are properly those of the parents.”

8. Comments on the requirements of international human rights law.

General Public

One parent felt that, like the Bible, the United Nations Convention on the Rights of the Child (UNCRC) could be “interpreted to rationalise a vast range of opinions.”

Another person referred to “the right of religious freedom and the exercise of faith” and suggested a change in the law would be “reminiscent of Nazi Germany and the worst excesses of communism, where the State controlled everything”.

One person even suggested that it was a child’s basic human right to have “appropriate physical punishment” and condemned any attempt to outlaw it as “immoral.”

Politicians and Political Organisations

One **MLA** suggested that “international human rights law should not be seen as law, but as an aspiration that parents should not want to hurt their children in any way, physical or non-physical”. It was, however, recognised that parents would sometimes “resort to both types of punishment in order to ensure discipline.”

Child Care/Medical Organisations

Child Care NI cited the ECHR, the European Union Charter of Fundamental Rights, the UNCRC and the Human Rights Act 1998 and concluded that corporal punishment breached the fundamental right to respect for human dignity and physical integrity.

Disability Action felt that physical punishment was a form of “physical and mental violence” and, as such, contrary to Article 19 of the UNCRC.

Civic Organisations, Voluntary Organisations and Trade Unions

The **Children’s Law Centre** declared that the “physical punishment of children is incompatible with Article 19 UNCRC” and noted that the UN Committee on the Rights of the Child had “made a specific recommendation that physical punishment be banned.” It also noted that the State could be held liable for the infringement of a child’s right under Article 3 of the ECHR, which provides for freedom from inhuman and degrading treatment. The Centre suggested that the definition of inhuman and degrading treatment was widening and warned that a failure to provide protection from sustained physical abuse by parents/carers under the criminal and civil law would lead to “further breaches of children’s rights and further challenges.”

The **Northern Ireland Human Rights Commission** advocated the abolition of physical punishment to ensure compliance with the UNCRC and equal protection from assaults. It reported an international trend towards a ban and went on to say that the Committee of Ministers of the Council of Europe had recommended an end to physical punishment. The Commission also drew attention to its draft Bill of Rights, which proposes that every child should be protected from “all forms of physical, emotional or mental violence, inhuman or degrading treatment or punishment, injury or abuse, neglect or negligent treatment, bullying, maltreatment or exploitation, including sexual exploitation or abuse”.

Religious Organisations

The **Christian Institute** (a public policy research group based in England) stated that there were “no international legal requirements for Northern Ireland to change the law on physical punishment.”

Finaghy Evangelical Presbyterian Church reflected the view that God’s law takes precedence over man-made law and declared –

“ Changing international human rights law to outlaw the smacking of children infringes our rights as Christians to apply the supreme standards which God has prescribed.”

9. Does this chapter contain the full range of law reform options?

General Public

Many people suggested that the “no change” option had not been clearly presented.

One person commended the law relating to child abuse in the American state of Arkansas, where –

“[a]buse does not include the physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. In general, very harsh or brutal treatment of a child is outlawed, as is any act likely to cause bodily harm greater than transient pain or temporary marks.”

Religious Organisations

The **Christian Institute** reflected the view that the “no change” option had been under-played.

Child Care/Medical Organisations and Civic Organisations, Voluntary Organisations and Trade Unions

The organisations that responded to this question were satisfied that all of the options had been considered.

10. Do you agree with the assessment of the Office of Law Reform that further reform in addition to the limited amendment of the defence of reasonable chastisement in the criminal law in R v H is needed to bring us in Northern Ireland into line with our human rights and equality obligations?

General Public

One respondent was not convinced of the need for change, declaring –

“If it’s not broken, don’t try to fix it!”

Standard Letters

One respondent noted that the British Government did not consider that a change in the law was necessary and suggested that the current law was very clear and easily understood by parents.

Politicians and Political Organisations

The **DUP** was not persuaded of the need for a change in the law, stating that Article 19 of the UNCRC dealt with violence, injury, neglect and all forms of abuse, but not with physical punishment.

Child Care/Medical Organisations

Barnardo's NI, the **NSPCC** and **Child Care NI** each asserted that the present position discriminates against children and contravenes both Section 75 of the Northern Ireland Act 1998 (duty to promote equality of opportunity between persons of different ages etc.) and the UNCRC.

Educational/Youth Organisations

The **Youth Forum** stated that children and adults should have equal protection from assault under the law. It also referred to the need for children and young people “to grow up in a safe and secure environment” and for parents to have adequate support in providing that environment.

Civic Organisations, Voluntary Organisations and Trade Unions

The **ICTU** suggested that the current law discriminates against under-eighteens because it allows for them to be physically punished.

The **CAJ** felt that the only way to comply with current international and domestic human rights standards was to ban the physical punishment of children. It went on to recognise the need for effective discipline, but condemned physical punishment as “unacceptable” and asserted that children “must have at least the same level of protection under the law as adults do against physical assault.”

Religious Organisations

The **Christian Institute** suggested that there was no need to change the law because, with the introduction of the Human Rights Act 1998, the U.K. courts are obliged to have regard to judgments of the European

Court of Human Rights in Strasbourg. The institute also suggested that the “no-change” stance adopted by England and Wales undermined the case for reform.

Campaigns

Children are Unbeatable echoed the view that, in light of the equality provisions in the Northern Ireland Act 1998, the defence of reasonable chastisement discriminates against children.

11. Which option for reform of the defence of reasonable chastisement (removing or limiting the defence) do you think represents the best way forward? Please give reasons for your choice.

General Public

The following arguments were cited in support of the “no change” stance –

- a ban on physical punishment would be contrary to the Bible’s teaching;
- child abuse is already a criminal offence and a change in the law will not stop abuse;
- the general public should not be held responsible for a small minority of abusive parents;
- parents know what is best for their children and should not be patronised, as if they do not know the difference between smacking and child abuse;
- morale has never been so low and teachers have no form of discipline;
- children cannot accept verbal discipline;
- most people have experienced physical punishment without long-lasting effects;
- it is wrong to introduce a law that will interfere with the well tried practices of a loving home;
- if smacking is banned, other, potentially more dangerous, methods of discipline will be used;
- the Government should simply issue guidelines, confining smacking to the hands, bottom or legs; and
- the law remains unchanged in England and Wales.

However, those who support the abolition of the defence of reasonable chastisement argued that a ban would enhance child protection by –

- easing prosecutions in those cases where prosecutions are thought necessary;
- enabling child protection workers to give the parents of children at risk of abuse the clear message that no level of corporal punishment is acceptable;
- ensuring that children have a consistent level of protection, which does not vary according to where they are placed or who is caring for them; and
- preventing unintended physical or psychological injury.

One submission on the pro-ban side supported the abolition of smacking, but also favoured the introduction of a law to protect parents from false accusations.

A division of opinion also emerged amongst a group of students who were studying for the HND in Early Childhood Studies and had completed an assignment on physical punishment. Five of the students suggested that it would be more realistic to simply limit the defence of reasonable chastisement, while the other four favoured its removal.

Children

One **10 year old** attempted to steer a middle course, declaring that “parents should be able to smack their children”, but should only do so when necessary “and should not be allowed to hit so hard that a bruise forms.”

Parents’ Organisations

Positive Parenting suggested that a drive against smacking might lead parents to think that all other punishments are fine. It also reiterated the dangers of emotional and verbal abuse and expressed concern about “the privacy of the family within the terms of human rights law.”

Another respondent suggested that “parents should be helped to have a range of responses to discipline” and that the goal could be the limitation, rather than the end, of physical punishment. It was proposed that this “should be achieved through education of parents, using parenting programmes, which provide a range of approaches to managing difficult behaviour in children.”

Child Care/Medical Organisations

Barnardo's felt that the only option was to revise the law and place children in the same position as adults with regard to assault. This would, it said, "present a clear unambiguous standard for parents and professionals and give a clear message in wider society both on how children should be treated and the unacceptability of violence."

The **NSPCC** agreed with Barnardo's and added, "NSPCC has no desire to see parents prosecuted for the smacking of their children and would wish to see very clear charging guidelines that facilitate discretion and a wider consideration of the stresses and circumstances of events."

The **Nursing and Midwifery Advisory Group** also aligned itself with Barnardo's, saying that a change in the law would make it easier for nurses to give a clear message that no level of corporal punishment is acceptable. **Disability Action** adopted a similar position.

Child Care NI argued for clarity in the law and asserted that the defence for violence against children had no place in a civilised society. It also emphasised the need for an extensive public education programme to support a change in the law and suggested that the police should receive special training on the implications of prosecuting allegations.

The Royal College of Paediatrics and Child Health also supported a change in the law, but urged against automatic prosecution for breach and emphasised the need for a programme of public education.

The **Eastern Health and Social Services Board** felt that legislative amendment should be deferred, pending the enactment of the Bill of Rights, and that, in the interim, education programmes should support the use of non-violent approaches to discipline.

North and West Belfast Health and Social Services Trust suggested that reasonable chastisement was "a flawed concept, in the sense that it suggests a rationality and balance in its application, [but] the experiences of child protection work would indicate that parental frustrations inform the use of physical chastisement in the vast majority of situations."

Educational/ Youth Organisations

The **Youth Council** favoured limiting the defence, due to concerns about enforcement and the possible criminalisation of parents.

Politicians and Political Organisations

A **MLA** looked to previous court judgments and suggested that guidance could issue for future judgments. Such guidance would –

- emphasise the need to focus on the parent’s intention;
- limit the defence to parents who took into consideration the age, development and personality of the child; and
- exclude particularly dangerous forms of punishment, such as hitting a child on the head or with fists or shaking him.

The **Northern Ireland Women’s Coalition** noted that it had always made equal rights for children a priority and stated that the law could not continue to discriminate against children by allowing a defence of “reasonable chastisement”. It concluded that “children must have the same protection under the law on assault as adults.”

Civic Organisations, Voluntary Organisations and Trade Unions

The Public Services Liaison Committee of Craigavon Borough Council found it difficult to reach a consensus on this issue, but did suggest that “the majority of people could live with punishment by parents that was fair, reasonable and proportionate”. It recognised, though, that each of those terms was open to debate.

Down District Council felt that the definition of reasonable chastisement was best left to the courts.

Criminal Justice System

The **Legal Services Branch of the RUC** queried whether removing the defence of reasonable chastisement and relying on a policy of discretionary prosecutions would meet with the ECHR requirements of ‘legality’ and ‘certainty.’ It favoured limiting the defence along the lines established in *A-v- UK* and *R -v- H*.

Legal Organisations

The **Criminal Bar Association** contended that no overlap should exist between “moderate and reasonable” punishment and “inhuman and degrading punishment”. The Association stated that juries, guided by the judgment set out by the European Court of Human Rights and expanded upon by the English Court of Appeal, were well placed to bring the current standards of ordinary decent members of the public to bear. That way, the common law would reflect societal attitudes, rather than attempt to change them.

The **Law Reform Advisory Committee for Northern Ireland** opted for a ban on physical punishment, coupled with “a best interests of the child” defence, the onus being on the parent to establish the defence.

Campaigns

Children are Unbeatable felt that human rights and equality obligations could only be met through the removal of the defence.

The following table lists the responses, revealing overwhelming support for the status quo.

Type of response	Retain the defence	Limit the defence	Remove the defence
General public	634	11	84
Children	4		1
Standard letters	833		
Politicians and political organisations	4		1
Parents’ organisations	2		4
Child care/medical Organisation		1	35
Educational/Youth organisations	1	1	4

Civic organisations, voluntary organisations and trade unions	2	1	13
Legal Organisations	1		1
Criminal Justice System		1	
Campaigns			4
Religious organisations	22		3

12. If you think that limiting the defence represents the best way forward, please state which of the elements outlined you would wish to see included in any reform.

General Public

One **child care expert** suggested that reasonable chastisement should “exclude hitting a child with instruments, e.g. canes, belts or slippers, or hitting a child on the head with the potential to cause brain damage and should also exclude any physical punishment of young infants”. It was also suggested that parents be advised that physical chastisement should be “confined to a light slap on the hand, calf or buttocks.”

One person supported the redefinition of “reasonable chastisement”, but recognised that this would not be easily achieved. He thought one option was to prohibit detectable injuries or bruises.

Another person asked for a ban on prolonged smacking in anger or frustration, which could cause injury and confusion.

Child Care/Medical Organisations

Save the Children concluded that limiting the defence would not meet the equality requirements of the Northern Ireland Act, nor satisfy our obligations under international Conventions.

Religious Organisations

CARE, a Christian charity, supported the limited use of physical punishment, based on a clear distinction in law between violence and physical punishment. It believed the A-v-UK case had identified factors that would enable the courts to make such a distinction and, for that reason, thought the law on reasonable chastisement should remain as it is.

13. In your view, is there any merit in including a statement of rights and responsibilities in our law?

General Public

Again, this question provoked a range of responses. On the one hand, it was suggested that “talk of rights in a family situation will only engender more conflict.” On the other, it was stated that, in light of the equality and human rights legislation, the law could not “continue to discriminate against children by allowing a defence of reasonable chastisement.”

One lawyer favoured an amendment to the Children (Northern Ireland) Order 1995 and cited the following provision in the Austrian Civil Code—

“Children are entitled to care, security and a good upbringing. The minor child must follow parents’ instructions. In their instructions and in the implementation thereof, parents must consider the age, development and personality of the child: the application of violence and the infliction of physical or mental harm are unlawful.”

Standard Letters

The standard letters re-iterated a parent’s “right” to discipline and punish, free from State interference.

One respondent suggested that a statement of rights and responsibilities would engender conflict, as parents already have a God-given authority to define their children’s standards.

Civic Organisations, Voluntary Organisations and Trade Unions

The **British Association of Social Workers** endorsed the approach of the Germans, whose law declares that —

“Children have a right to be brought up without the use of force. Physical punishment, the causing of psychological harm and other degrading measures are forbidden.”

It was noted that German law also imposed a duty on local authorities to “promote ways in which families can resolve conflict without resort to force.”

However, **Ards Borough Council** urged caution and suggested that “the desire to gold-plate the existing Human Rights Act, while well intentioned, would further complicate the issue and equate parents who legitimately chastised their children in a fair, caring and thoughtful manner with child abusers.”

Campaigns

Children are Unbeatable expressed support for a statement of rights and responsibilities.

Religious Organisations

However, **the Christian Institute** took a contrary view, rejecting legislative amendment.

Legal Organisations

The **Law Reform Advisory Committee for Northern Ireland** suggested that the prohibition of physical punishment should be accompanied by a statement that recognises the child’s right to physical integrity.

14. If so, is the place for that statement in the definition of parental responsibility in the Children (Northern Ireland) Order 1995, whether as it stands or as amended?

Child Care/Medical Organisations and Campaigns

Barnardo’s, the NSPCC and Child Care NI supported a change to the Children (Northern Ireland) Order 1995 and the imposition of a specific obligation to avoid the use of physical punishment.

The **Eastern Health and Social Services Board, Down Lisburn Trust** and **Disability Action** also supported legislative amendment, as did **Children are Unbeatable**.

Civic Organisations, Voluntary Organisations and Trade Unions

The **Northern Ireland Women's Aid Federation** proposed that the Children Order be amended to provide that the "physical punishment of children must not in any circumstances include the use of any implement whatsoever".

Religious Organisations

The **Association of Baptist Churches in Ireland** advocated the creation of a new offence, such as "failure to caution" or "failure to instruct", and suggested that the definition of parental responsibility be re-visited.

15. If such a statement were to be included, what should it say?

Child Care/Medical Organisations and Civic Organisations, Voluntary Organisations and Trade Unions

Child Care NI referred to Sweden, which has adopted the following statement –

"Children are entitled to care, security and a good upbringing. Children are to be treated with respect for their person and individuality and may not be subjected to physical punishment or other injuries or injurious or humiliating treatment."

The Swedish model was endorsed by several other childcare organisations and the **ICTU**.

16. What, in your view, would be the effect of such a statement in law?

Campaigns

Children are Unbeatable suggested that a statement of rights and responsibilities would indicate to society that children have the same right not to be assaulted as adults.

Civic Organisations, Voluntary Organisations and Trade Unions

The **Equality Commission** stated that the protection from discrimination afforded to those of all ages would be undermined by the current defence of “reasonable chastisement”, which does not afford equal treatment for both children and adults.

17. Do you agree that the main equality impacts of this issue are on children and those with dependents?

General Public

One **Methodist minister** suggested that the parent/child relationship was unequal at “many points” and that it was “rather strange” to raise the issue of equality in the context of that relationship.

Others expressed concern about possible discrimination against Christian parents, who are convinced that the use of physical punishment is advocated in the Bible.

Standard Letters

The inherent inequality theme was reflected in the standard letters, one of which declared –

“Children and adults are not equal.....There is no equality in any sphere of life in this world. God did not intend it so. There will always be rich and poor, strong and weak, healthy and unhealthy men and women upon this earth. It would appear that this proposed legislation has come about as a result of that terminal illness from which this country suffers known as ‘do gooder syndrome’.”

Child Care/Medical Organisations

Disability Action reiterated concerns about “patchy” provision and suggested that there could be an adverse impact on children and parents affected by disability, race or sexual orientation.

Other organisations spoke of the impact on independent Christian schools, the travelling community, rural populations and areas of social and economic deprivation.

Religious Organisations

The **Christian Institute** rejected the suggestion that the issue impacted mainly on children and those with dependents and the **Presbyterian Church** asserted that –

- the relationship between adults and children is fundamentally unequal;
- physical punishment and child abuse should not be equated; and
- the proposals discriminate against Christian parents, ethnic minorities and those of other faiths who support physical punishment.

18. Do you have any comments on the other equality impacts identified or anticipated?

19. Are there, in your view, any further equality impacts which have not been identified?

General Public

Concerns about discrimination were echoed by a **Methodist minister** , who stated that–

“Any proposal to ban smacking would in fact be discriminatory. It would have an adverse impact on Christian parents, like my wife and I, who regard physical punishment as part of loving discipline taught in the Bible.”

However, another submission stated that a child should not have to suffer simply because its parents belong to a particular church.

Another professional commented, “Religion should not be used as a cloak for cruelty, but rather should underscore the paramountcy of love and responsibility. Any group claiming a mandate on the “spare the rod” biblical mandate need to be reminded of the modelling of husband and wife relationship as sacrificial love that neither provokes or injures. I believe in a “covenant” relationship with God and, as a parent and believer, made vows to bring up my children and others in the supportive context of the church.”

Child Care/Medical Organisations

Barnardo's echoed the concerns about patchy provision and suggested that several groups (e.g. members of the travelling community, families with children with disabilities, young parents and lesbian and gay parents) did not have equal access to parenting support services.

In this regard, the **Ulster Community and Hospitals Trust** advocated more research in order to establish whether children from minority ethnic or religious groups are experiencing more or less physical punishment than those in the general population.

The **NSPCC** suggested that parents in Northern Ireland had not benefited to the same extent as those in England from government initiatives, following the Supporting Families Green Paper. It also stated that Northern Ireland's Sure Start programme was not as extensively funded.

Campaigns

Children are Unbeatable were concerned that families from the travelling community and families with children with disabilities did not have equal access to parenting resources.

20. In relation to what objectives is there a need to promote equality of opportunity in relation to physical punishment?

Child Care/Medical Organisations

Barnardo's argued for protection from assault under the law for both children and adults and for parents to have an equal opportunity to bring their children up with appropriate support from the State.

Campaigns

Children are Unbeatable stated that there was a clear need to promote equality of opportunity, with a view to ensuring that –

- Children and adults have equal protection from assault under the law;
- Children in all equality groupings have an equal opportunity to a secure and nurturing upbringing; and
- Parents in all the equality groupings have an equal opportunity to bring their children up in a secure and nurturing atmosphere.

21. In order to mitigate the equality impacts identified, or to better promote equality of opportunity in relation to the objectives you have identified, which of these options do you think has a role to play?

- (a) abolishing the defence of parental reasonable chastisement of children in Northern Ireland?**
- (b) limiting the defence of parental reasonable chastisement?**
- (c) including a statement of rights and responsibilities in the legal definition of parental responsibility?**
- (d) encouraging the development of parenting programmes?**

General Public

One woman, who supported a change in the law, suggested that legislation should “incorporate compulsory training for all parents to ensure they have the necessary skills to train and rear their children in a loving and secure home.” Others supported this approach, with one person even proposing financial incentives for parents who attend parenting classes.

Child Care/Medical Organisations

Barnardo’s advocated the abolition of the defence, a change in the Children Order, to include a specific obligation on parents to avoid the use of physical punishment of children, and services designed to support carers/parents.

The **North and West Belfast District Childcare Partnership**, along with many other agencies, advocated a two-pronged approach: radical legal reform to outlaw physical punishment, as well as a detailed support and education programme which encourages “the use of non-violent approaches to discipline.”

22. Would you consider any other ways of mitigating the equality impacts of physical punishment or better promote equality of opportunity?

Respondents tended to address these issues in their replies to questions 18 and 19.

23. Please indicate any additional sources of data or research on physical punishment which could be used to develop the knowledge base and monitor any reform of the law.

Child Care/Medical Organisations

Child Care NI suggested that the Government should consider putting in place a longitudinal study which tracks the impact of the ban on physical punishment on a range of social statistics, e.g. juvenile convictions for theft, the level of domestic violence, youth suicide, improved classroom behaviour and performance.

The **Eastern Health and Social Services Board** cited Straus and Paschall (1999), who found that children who were not smacked had faster than average mental development.

Save the Children cited Sears (1957), Gelles (1974), Kalmus (1984), Kandel (1992), Straus and Kantor (1994), Strassberg et al (1994), Straus (1996), Straus, Sugarman and Giles-Sims (1997), Gunnoe and Mariner (1997), Carroll (1997), Brezina (1998), Simons, Lin and Gordon (1998) and Straus and Paschall (1999), all of which link physical punishment to aggression later in life.

24. Comments on the TSN assessment in relation to the issue of physical punishment.

25. Comments on the Regulatory Impact Assessment.

Neither of these questions drew substantial comment.

SUMMARY OF, AND COMMENT ON, RESPONSES TO THE GENERAL CONSULTATION EXERCISE

It was apparent from the responses that this is an issue that arouses strongly held and diametrically opposed opinions.

The majority of the respondents rejected an outright ban on physical punishment or the abolition or limitation of the defence of “reasonable chastisement”. For the most part, their opposition derived from deep-seated religious convictions, a belief that the State should not interfere with family life and the rejection of any linkage between “reasonable chastisement” and physical abuse.

Ultimately, those who supported the use of physical punishment were unpersuaded by “rights arguments”, at an international or domestic level, and remained unconvinced of the need for reform. However, it is important to remember that the law is designed to provide a framework for living and a mechanism for balancing competing responsibilities, needs and interests. The recognition of children’s rights does not automatically result in a diminution of parents’ rights. It is essentially a question of how the various rights can best be accommodated and met. Moreover, any suggestion that the State should not “meddle in private affairs” will inevitably be met with the argument that the State already, and necessarily, regulates a whole range of child-related issues, such as education and minimum standards of care.

Moving on to the issue of religious beliefs, there was no consensus on whether the Bible advocates the use of physical punishment or merely extols the virtues of a disciplined approach to child-rearing. However, interestingly, the High Court in England and Wales has previously rejected the claim, by a group of private schools in the U.K., that a ban on corporal punishment infringed parents’ rights to freedom of religion and respect for family life¹.

To those opposed to the use of physical punishment, the defence of “reasonable chastisement” is an unjustifiable obstacle to the effective protection of children. For them, international obligations hold sway and

¹ Williamson v Secretary of State For Education and Employment [2001]EWHC 960

the research findings on the detrimental impact of physical punishment are regarded as conclusive.

Clearly, there was no meeting of minds on the fundamental issue of whether physical punishment is acceptable and appropriate. However, there were several significant points of agreement between the two sides, which should be endorsed. Both recognised the significance of, and demands associated with, the parenting role. They also emphasised the importance of a strong, loving parent/child relationship, the need to set boundaries and equip children with the skills required for communal living and the need to prevent long-term physical or emotional damage. There was also widespread support for a programme of public education and other methods of providing assistance to parents.

FOCUS GROUPS

As previously stated, a number of focus groups met to explore the issues relating to the physical punishment of children in the home. A total of 97 people participated in six groups, which met in Londonderry and Belfast.

Composition of Groups

The groups were chaired by a consultant and included members of a range of organisations that represent parents, people with disabilities, ethnic minorities and older people. Several groups, that had expressed an interest in being consulted directly, did not, however, participate due to “consultation fatigue”.

The groups were reluctant to divulge their precise religious composition. However, they all described themselves as “mixed”.

Six of the participants were from ethnic minorities.

Procedure

Each discussion commenced with a general introduction and explanation of the procedure to be followed. The composition of the group was then explored and a broad discussion on the issues was conducted. This was followed by more structured questions, which led in to the consideration of specific scenarios.

In each scenario, the group voted on whether the law should permit the use of physical punishment.

Finally, the available options, including maintaining the status quo, were assessed.

At each stage, the group’s responses were recorded on a flipchart and checked for accuracy.

What Did They Say?

In this section, we have set out the questions posed to the groups and their responses.

How do parents learn to be parents?

- From their own families: parents and grandparents. (It was, however, recognised that this could lead to inappropriate behaviour (e.g. domestic violence) or out-of-date habits being “passed on”. It was also recognised that refugees and other minorities may have lost their parents and, as a result, have a traumatised view of parenting. It was suggested that, in some ethnic minority cultures, the extended family might interfere too much. It was also suggested that there could be conflict between minority and host cultures over parenting (e.g. media and role models)).
- Friends.
- Churches and Sunday school.
- Their children’s teachers.
- Youth organisations (e.g. Scouts, B.B.)
- Remembering their own childhood.
- Parenting books and magazines.
- From the media (e.g. Kevin and Perry, soaps, Oprah, Kilroy). The lack of interaction and long-term support were perceived as weaknesses here.
- They make it up as they go along.
- There is little information available to parents. Often they are not sure what to do and may strike out when at their wits end.

What is the purpose of discipline?

- To teach right from wrong.
- To make children aware of their rights and responsibilities and how to apply them in a balanced way.
- To teach and internalise a good value system.
- To reward good behaviour and good manners.
- To help children to understand the boundaries.
- To keep children safe.
- To create consistency and security.
- To teach children respect.
- To develop a child’s self-worth, self-discipline and self-reliance.

- To teach common sense.
- To help children to make the right decisions for themselves.
- To teach children what is socially acceptable.
- To create good citizens and give them civic pride.
- To teach self respect, and to develop a child's confidence and ability to stand up to peer pressure.
- To enable children to become good parents.
- To empower parents.

What punishments can you use?

- Depends on the child.
- Depends on the quality of the relationship between the parent and child.
- Must be sincere.
- Must punish out of love, rather than anger and worry.
- Should try to create order and routine.
- Should talk and listen: find out the reasons for the behaviour.
- Should spend time with children.
- Should explain rules and expectations clearly.
- Aim to punish the behaviour, not the child.
- Be proportionate to the behaviour.
- Reinforce good behaviour.
- Withdrawal of privileges (e.g. pocket money).
- Grounding, although some felt that this did not work with the more defiant child.
- Hide the child's clothes.
- Teach by example.
- Send child to sit on the stairs/in the corner.
- Put child in another room.
- Make child do some work.

What is physical punishment?

- Shaking, gripping.
- Smacking with an open hand.
- Hitting with a belt, a "taw", poker, wooden spoon.
- Physical restraint: tied to a chair, held in a corner.
- Locked under the stairs.
- Put out in the cold.

- Punishment is a consequence of inappropriate behaviour. It is based upon fear and external control. It is short term and may be a reaction to parents' emotional needs. Discipline is about education for life. It requires awareness, understanding and ownership. It is about developing self-control. It is long-term and rational. There might never be the need for punishment, but there will always be the need for discipline.

What help and support should there be?

- Parenting support programmes (e.g. Lifestart, Parents Advice, health visitors, advice centres, help lines).
- Awareness training and parenting courses, tailored for, and accessible to, all cultures.
- Parents need to show more love to their children and talk with them more.
- Parents need to understand that money is no substitute.
- Employers should give study leave.
- More community development and capacity building.
- Ensure that schools stop racist bullying.
- More play areas for children.
- Less violence and paramilitaries.

Scenarios

The following section sets out the seven scenarios that were presented to the groups, records their views on whether the law should allow smacking in the relevant circumstances and identifies the factors that influenced those views.

1. A 15 year old girl is beaten with a brush handle and is badly bruised.

91 people said the law should not allow such punishment.

Significant factors: the injury, age of the child and use of an implement.

2. A 4 year old boy is slapped on the leg in a supermarket for running away.

60 people said the law should allow such punishment. 20 felt it should not and 11 were unsure.

Significant factors: the punishment is instant and directly related to protecting the child. However, concern was expressed about the child's level of understanding and other factors (e.g. what if the child is autistic?).

3. A 12 year old boy is slapped across the face for being cheeky.

9 people said the law should allow such punishment. 79 felt it should not and 3 were unsure.

Significant factors: the body part, the age of the child.

4. A 2 year old is slapped on the hand for breaking an ornament.

65 people said the law should allow such punishment. 25 felt it should not and 1 was unsure.

Significant factors – level of understanding, whether the breakage was deliberate or accidental.

5. A 16 year old is punched by his father for answering back.

91 people said the law should not allow such punishment.

Significant factors – the use of the fist, teaching violence.

6. A 6 year old is hit with her father's belt for refusing to eat her dinner.

91 people said the law should not allow such punishment.

Significant factors – the use of the belt and the nature of the child's behaviour.

7. A 3 year old is smacked on her bottom for going too close to the fire.

51 people said the law should allow such punishment. 30 felt it should not and 2 were unsure.

Significant factors – primarily the parents' responsibility to protect the child's safety.

Available Options

To round off the discussions, the groups were asked whether the defence of reasonable chastisement should be limited or removed. 3 people voted to retain the defence, 28 people voted for its removal and 52 people advocated its limitation.

There was no consensus on how the limitation might be achieved. However, proposed restrictions included –

- a ban on the use of implements (i.e. only permitting slapping);
- the exclusion of certain areas of the body (e.g. not the head or below the waist);
- restricting physical punishment to a particular age range (e.g. 3 to 13 year olds);
- only permitting physical punishment by parents;
- requiring physical punishment to be conducted in a properly controlled manner; and
- consideration being given to the frequency, duration and patterns of physical punishment.

SUMMARY OF, AND COMMENT ON, RESPONSES FROM FOCUS GROUPS

The general consultation exercise revealed a polarisation of views, with people advocating either the retention or removal of the defence of reasonable chastisement. However, it would appear that the dilemmas raised by the scenarios encouraged the participants in the focus groups to be more discriminating. There were clearly circumstances where they considered forms of physical punishment to be unacceptable, just as there were situations in which the majority supported a smack.

It is worth noting that the discussions were based upon personal experience (rather than Biblical principles, research findings or human rights law) and that physical punishment was seen by most as a small, and not particularly important, part of bringing up a child.

It is also worth noting that, on the crucial question of whether the defence of reasonable chastisement should be limited or removed, the majority of those who expressed a preference (just over 62 %) opted for limitation. There was, however, no consensus on how that limitation might be achieved.

CONSULTATION WITH CHILDREN

A variety of consultation techniques were used to encourage children and young people to “have their say”.

Materials and worksheets were sent to every school in Northern Ireland and posted on two specially designed websites for children (4 – 11) and young people (12-16). The aim of the worksheets was to provoke discussion on physical punishment and related matters, such as support and assistance to families.

Groups of specially trained facilitators visited schools and homework clubs to explain the background to the consultation process and field any queries.

The facilitators used the “Splodge methodology”, which was devised by Save the Children Fund, in face-to-face discussions with younger children. “Splodge” is a character who quickly builds up a rapport with the children and encourages them to have their say. Facilitators travelled across Northern Ireland and, with Splodge’s help, elicited views on the key issues.

SPLODGE METHODOLOGY

The direct discussions with younger children were recorded and followed a set routine. At the outset, the children were introduced to Splodge and told that he had lots of questions to ask. A series of questions were then posed and the children were encouraged to respond.

As you might expect, the discussions were lively. However, unlike the activity sheets (which are discussed below), the responses are not easily collated. We have, therefore, simply set each question out below, together with a cross-section of the responses.

Who knows what a smack is?

- A slap.
- Someone hits you on the bottom.

Why do you think children get smacked?

- They are bad.
- They've done something wrong.
- They get into trouble with their friends.
- They are bold.
- They are cheeky to their mummy.
- They don't go to sleep at night.
- They throw pillows all around the living room.
- They break something.
- They say a bad word.
- They smack their daddy.
- They hurt anyone.

Who smacks children?

- Daddy and mummy.
- Brothers and sisters.
- Granny and Granda.
- Great-granny and Great-granda.
- Aunties and Uncles.
- Cousins.
- Friends.

Where do children usually get smacked?

- On the bottom.
- On the arm.
- On the shoulder.
- On the head.
- In the back.
- On the leg.
- On the ear.
- On the tummy.
- On the knuckles.
- On the eye.
- On the hand.

What does it feel like to be smacked?

- Sad.
- Painful.
- You start crying.
- Horrible and sore.
- Makes you feel lonely.
- You laugh at it.
- You run away.

How do children act after being smacked?

- Good, because they've learnt their lesson/don't want to get smacked again.
- They cry.
- They tell teachers.
- They feel hard.
- Silly.
- Cross.

How do adults act after they've given a smack?

- Cross and angry.
- Annoyed.
- Upset.
- They ask you to go to bed.

- They say you're grounded.
- They say sorry because they know you hurt.

Do you think smacking is a good or a bad thing?

- It's a good thing, because you have been bad and you deserve to be punished.
- My mum says she doesn't believe in smacking.
- If you're bad all you need is a good shouting at.
- Don't like it.
- Absolutely hate it.
- It's not nice.
- I think you shouldn't hit other people.
- I think it should be stopped.
- It's cruelty.

Are there any other things grown-ups could do instead of smacking?

- Shout at you/tell you off.
- Make you say sorry.
- Hug you.
- Ground you.
- Send you out to play/make you go outside.
- Send you to your room.
- Leave you up in the attic for a day.
- Chuck you off your bunk bed.
- Say what's not allowed.
- Take away your dessert/pocket money/sweets/favourite toy.

When you are big, do you think you would smack your children?

- No, because I know what it feels like.
- No, because, if you're out somewhere, you don't want anyone crying in front of you.
- Only if they're really bold.
- I think I would because, when people are bad, they have to be punished.
- No, because, if you smack them, you'll hurt them and you'll just have to smack them again.
- Definitely not.

- When they are bad you have to smack them and when they are good you don't have to smack them.
- I would shake their hand.
- I would give them a kiss.

PRIMARY SCHOOLS

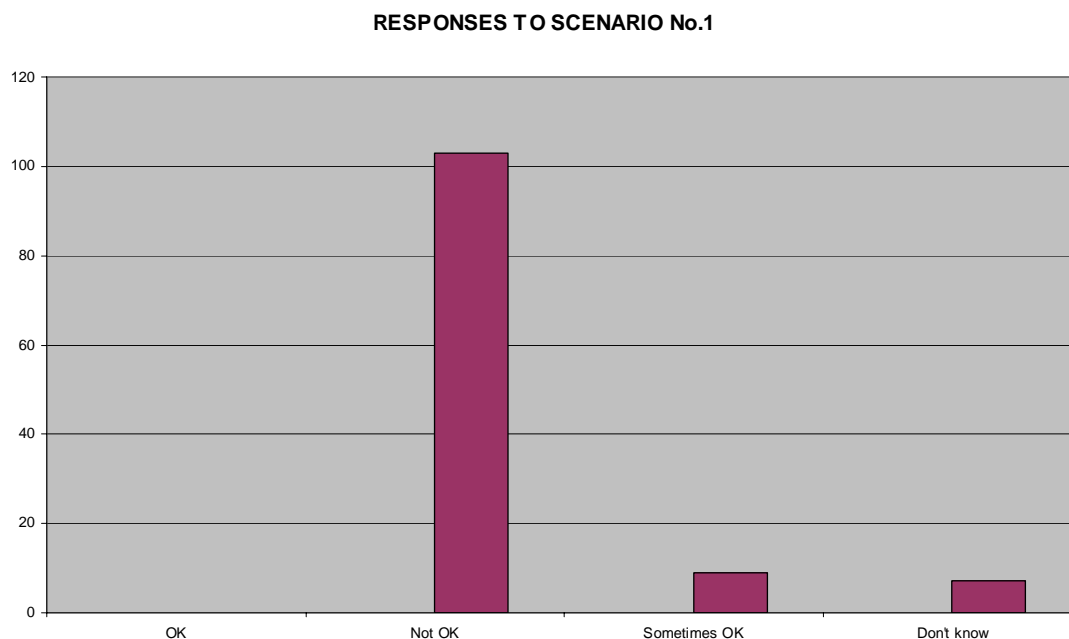
ACTIVITY ONE

The primary school children were taken through a series of linked activity sheets. The first sheet presented 7 scenarios and invited the children to assess the punishment used in the relevant circumstances. Four responses were listed (okay, not okay, sometimes okay, don't know) and the children were asked to tick the appropriate box.

Each scenario is set out below, together with a graph showing the range of responses and a summary of the factors that influenced the children's choice.

Scenario No.1

A 12 year old girl is beaten with a brush handle and is badly bruised.



103 of the children stated that this type of punishment was unacceptable, 9 were unsure about its acceptability and 7 felt that it was sometimes okay.

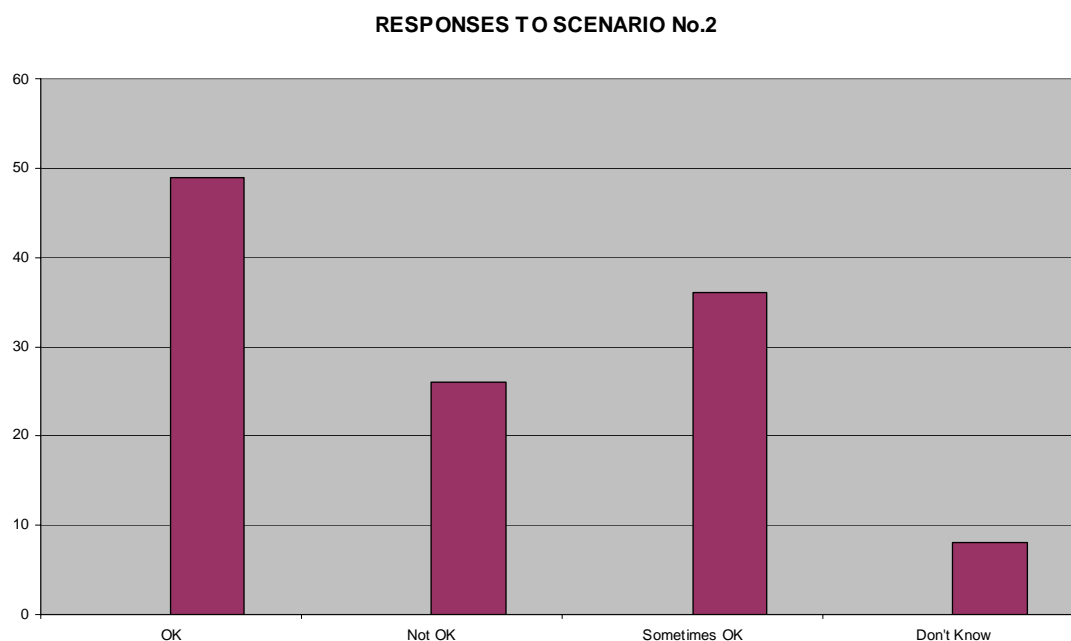
For many children, the use of an implement, the level of bruising/severity of punishment, the age of the child and the availability of other punishments (e.g. telling off, talking to, grounding) were significant factors in the decision to reject this form of punishment. A number of children suggested that it was inappropriate to hurt other members of your family, or indeed anyone. The children described the punishment as “cruel”, “very sore”, “unfair”, “sad”, “not nice”, “hurtful” or “bad” and it was suggested that the girl should contact ChildLine. This group of children expressed concern about the likely consequences of this form of punishment, referring to possible damage to sensitive areas (e.g. eyes or head) and the danger of lasting effects (e.g. internal problems).

The children in the “sometimes okay” category, queried the level of bruising and suggested that a child could be “bruised too much”.

The children who replied “don’t know” wanted further information on the events leading up to the punishment. They suggested that the punishment might be merited if the girl had done “something very bad”. They also asked about the size/type of brush used.

Scenario No.2

A four year old boy is slapped on the legs in a supermarket for running away.



49 children stated that this form of punishment was okay, 26 stated that it was not okay, 36 suggested that it was sometimes okay and 8 didn't know whether it was acceptable.

For the majority of the children, the pain of the punishment was outweighed by the dangers associated with running off (e.g. child might run into road/carpark and be injured, get lost, be abducted). Other significant factors in the decision to endorse the punishment were the belief that the objective was to keep the child safe, the fact that the child had misbehaved by not staying by the parent's side, the fact that there were no bruises and the educational impact (i.e. the child would learn a lesson and not run off again).

The children who registered opposition raised the public nature of the punishment, the child's age and level of understanding, the availability of alternative methods of discipline (e.g. talking, scolding) and the possible consequences (including emotional scars).

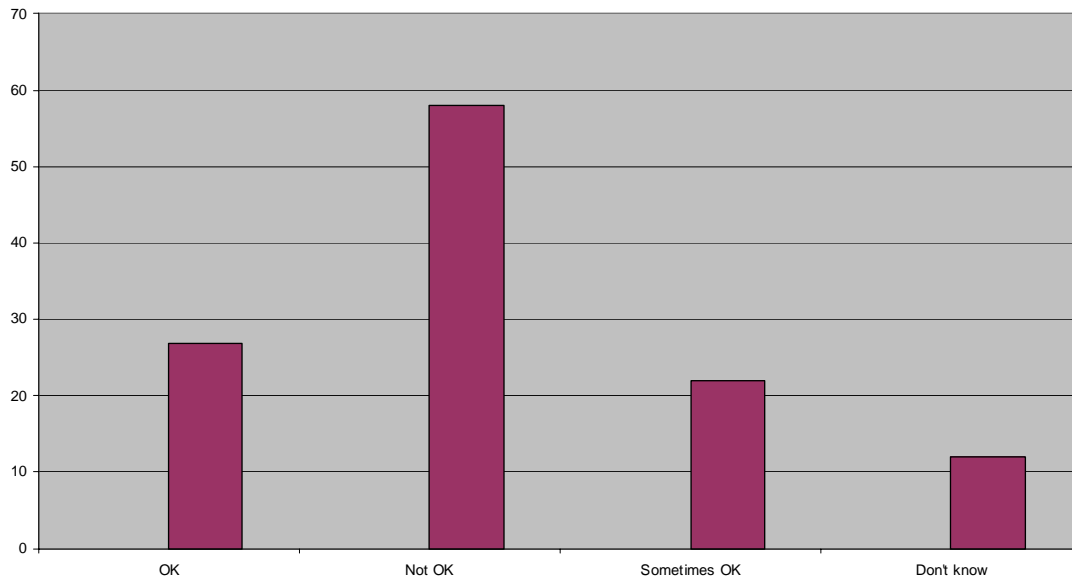
The children in the "sometimes okay" category referred to the parent's concern and suggested that the punishment was an instinctive reaction. Other factors raised were the child's age and level of intent, the possibility of bruising, the public nature of the punishment, whether the child had disobeyed previous warnings and the frequency of the punishment.

The two main considerations in the "don't know" category were the child's age and the embarrassment associated with punishment in public.

Scenario No.3

A fifteen year old boy is slapped across the face by his mother for being cheeky.

RESPONSES TO SCENARIO No.3



27 children stated that this punishment was okay, 58 stated that it was not okay, 22 stated that it was sometimes okay and 12 did not know if it was acceptable.

Some of the children who endorsed this type of punishment speculated about whether the boy had used foul language. Others suggested that, in light of his age, he should have known better. The question of intent and the importance of respect for older people were also raised.

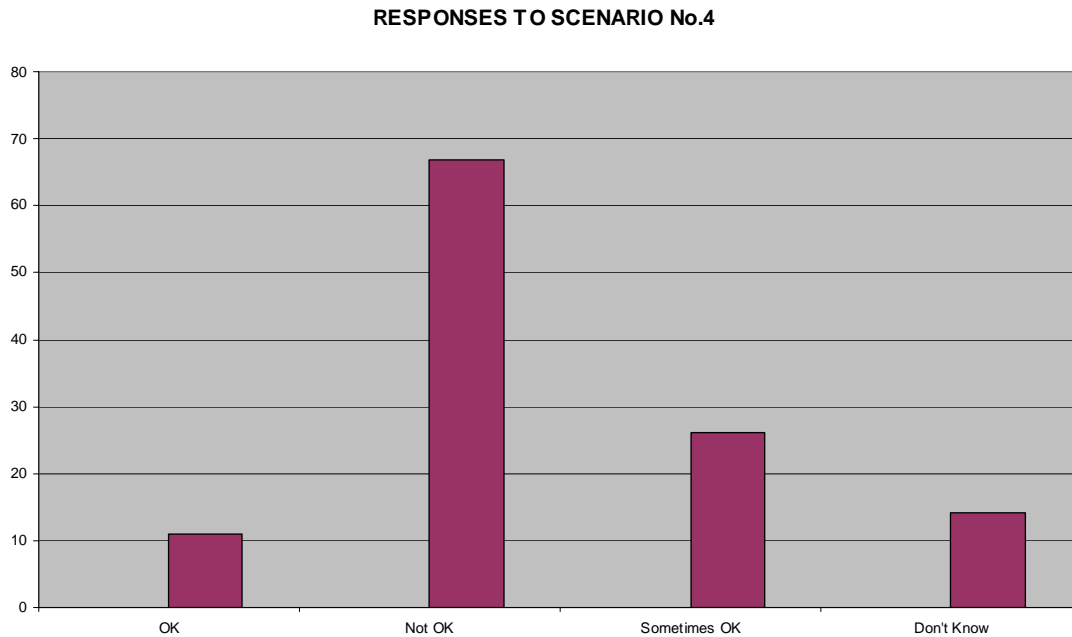
The children who rejected this form of punishment listed a number of considerations, including the need for parents to set an example, possible consequences (e.g. may injure the boy or cause him to run away), the boy's age (should be able to discuss issues), the fact that everyone makes mistakes, the need for equal treatment (i.e. grown ups aren't slapped when they're cheeky), the family relationship and the possibility of friends witnessing the event. Many of the children described the punishment as "sore" and stated that no-one should be hit on the face.

The children who opted for "sometimes okay" also referred to the boy's age and speculated about the circumstances leading up to the punishment. The impact of the misbehaviour on the parent was raised too. However, concern about the severity of the slap and the possibility of injury led some children to enter a note of caution.

The children in the “don’t know” category also considered the possible nature of the boy’s comments and the level of force.

Scenario No.4

A 2 year old is slapped on the hand for breaking a cup.



11 children stated that this form of punishment was acceptable, 67 said that it was not, 26 stated that it was sometimes okay and 14 opted for “don’t know”.

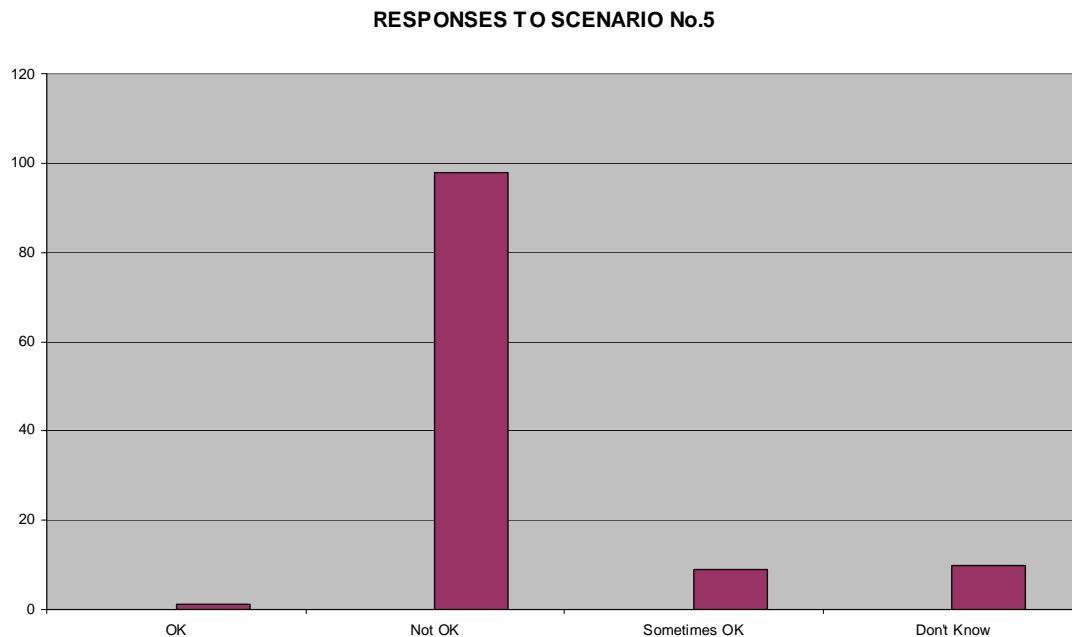
The children who endorsed this form of punishment referred to the nature of the punishment and the need to teach the child a lesson. Several also wondered whether the cup was expensive.

The children who rejected this form of punishment were influenced by a range of factors. Many cited the child’s age and level of understanding and suggested that the breakage might have been accidental. Some felt that the parent was at fault for not having provided a non-breakable cup. Others suggested that the cup could be easily replaced and reiterated that “everyone makes mistakes”. Several children stated that babies shouldn’t be slapped because they are more sensitive to pain.

The children who opted for “sometimes okay” or “don’t know” also raised the issue of intent (e.g. whether child acted in fit of temper), the cost of the cup and the child’s age and level of understanding.

Scenario No.5

A 10 year old is punched by his father for answering back.



Only one child went for the “okay” option. 98 children rejected this form of punishment, 9 stated that it was sometimes okay and 10 registered uncertainty about its acceptability.

The child who opted for “okay” felt that the boy was old enough to know better.

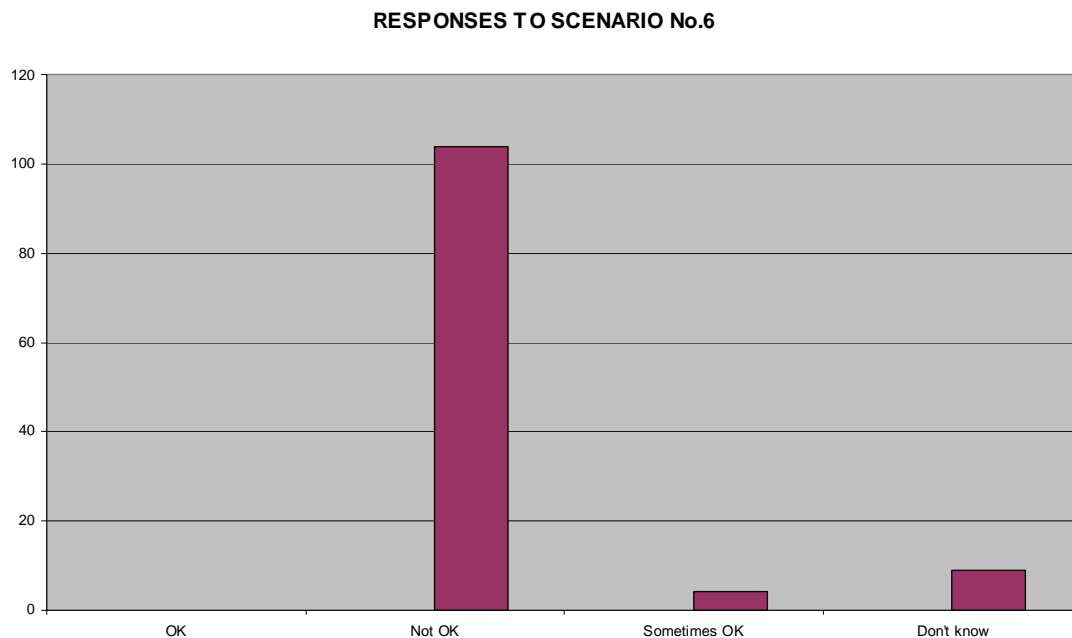
The majority group described the punishment as abusive, excessive, cruel/harsh treatment or bullying. Many children stated that punching was not the solution and listed the possible injuries (bruises, broken nose/jaw). Some children referred to the relationship between the parties and suggested that the father’s behaviour could cause friction within the household. It was also suggested that the punishment would cause resentment, rather than educate and alternative punishments (grounding, sending to room, slap to legs) were proposed. Several children asserted the boy’s right to air his views and there was even speculation about whether the father may have been cheeky to the child.

The children in the “sometimes okay” category emphasised the importance of obedience, but said they would need further information on what was said, the level of force and the location of the punch.

Several of the children who ticked the “don’t know” box felt that there was fault on both sides: the boy shouldn’t have answered back, but his father shouldn’t have punched him. Others referred to possible injuries and queried the weight of the punch.

Scenario No.6

A 6 year old girl is hit for refusing to eat her dinner.



This example came close to producing a unanimous response. None of the children endorsed the punishment used. 104 children registered their opposition, 4 felt that it was sometimes okay and nine opted for “don’t know”.

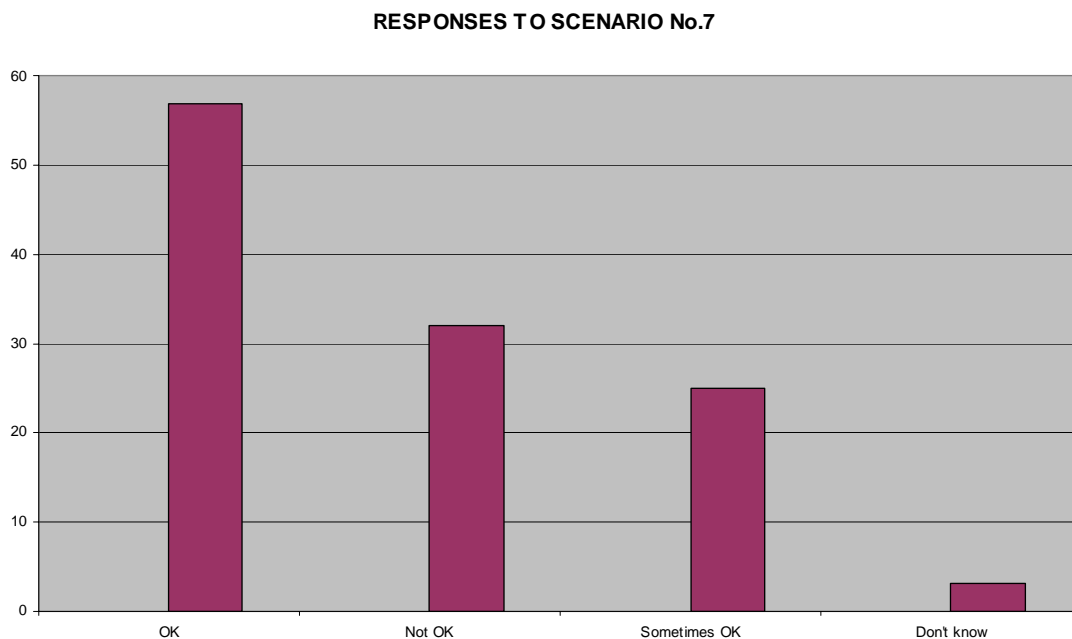
A range of factors influenced the children in the majority group, including the use of an implement, possible injuries, the availability of alternative punishments (sending to room or discussing the issue), the level of pain, the possibility that the child was already full or didn’t like the food and the child’s right to choose. The need for equal treatment was reiterated (i.e. adults who do not eat are not punished in the same way). Some children emphasised the need to be patient and described the punishment as too severe/harsh.

The children who opted for “sometimes okay” stated that the girl should not have refused her dinner, but recognised that taste may have played a part.

The children in the “don’t know” category queried the level of force and raised the possibility of illness. Several also suggested that the girl was being wasteful.

Scenario No.7

A 3 year old is smacked on her bottom for going too close to the fire.



57 children stated that this punishment was okay, 32 felt it was not okay, 25 indicated that it was sometimes okay and 3 opted for “don’t know”.

Three key factors were cited by the majority group: the possibility of severe injury, the motivation of the parent (i.e. to protect) and the desirability of teaching the child a lesson.

The children who rejected the punishment referred to the child’s age and level of understanding and the availability of alternatives (e.g. issue warning, use fireguard). They also queried the level of force used and suggested that there might be a contradiction in inflicting pain to prevent harm.

Most of the children who opted for “sometimes okay” balanced the level of danger and potential for injury against the pain of the punishment. However, several children sounded a note of caution about the appropriate level of force and commented on the absence of a fireguard. Several children also wondered whether the child had been previously warned of the dangers and was being deliberately disobedient.

In the “don’t know” category attention centred on the age of child.

ACTIVITY TWO

In the second phase of the activity session the children were encouraged to be more inventive. To begin with, they were asked to reflect on how children could be encouraged to behave well and to devise new rules to deal with bad behaviour.

Rules to deal with bad behaviour

A range of rules were proposed, including –

- sending the child to bed without supper;
- banning blows to the child’s upper body;
- bringing the child in early;
- keeping the child in at school and at home;
- putting the child in a quiet room to read a book or work, with no contact;
- shouting at the child;
- removing the child’s privileges (e.g. watching TV, using computer, playing games)
- preventing the child from seeing his/her friends;
- keeping the child in until s/he says “sorry”;
- making the child clean the house,
- preventing the child from issuing invites to his/her birthday party;
- discussing the issue with the child;
- leaving the child alone;
- making the child eat in the barn;
- devising a rule book;
- making the child change his/her little brother or sister’s nappy;
- putting the child in the corner;
- stopping contact; and
- no dessert.

When is physical punishment appropriate?

The children were then asked to say when it would be appropriate to smack or physically punish a child. Several of the children stated that it was never okay to smack a child. Others suggested that children under the age of 4 or 5 should never be physically punished. However, most of the children identified behaviour that, in their view, merited physical intervention. This included –

- dealing in drugs after repeated warnings not to do so;
- swearing after being asked not to do so;
- spilling juice;
- refusing to go to school;
- going near a sharp knife;
- nipping;
- kicking;
- biting;
- calling names;
- punching another child over a trivial matter;
- vandalising property;
- doing something really bad (some said that the child would have to understand that what he was doing was bad);
- playing with, or going too near to, fire;
- hitting people and hurting them badly;
- running out of a shopping centre;
- being disobedient or cheeky;
- refusing to go to bed;
- breaking a cup, bowl, windows or something valuable;
- fighting and getting expelled from school; and
- getting into dangerous situations or risking self-harm.

Several children also emphasised the importance of the adult having previously explained what is expected of the child.

When is physical punishment not appropriate?

Having identified when physical punishment might be necessary, the children were asked to say when it was not okay to smack or punish a child. In response, they said that such punishment would be inappropriate if a weapon was used or if the child–

- didn't mean to do anything wrong;
- was young and didn't know any better;
- hadn't been told why he was being punished;
- hadn't done anything wrong;
- was "underage" (2 and 3 were mentioned here);
- had refused food;
- answered back and had a legitimate reason for doing so;
- was just acting up in front of his friends; or
- was unwell.

Who should be allowed to physically punish a child?

The children were then asked who should be allowed to smack or physically punish a child. Some children stated that no-one should be allowed to do so. Others emphasised the need to control the level of force used. However, overall, a fairly broad list was produced –

- Mum;
- Dad;
- Grandparents;
- Aunts ;
- Uncles;
- Relations of the child;
- Someone close to the family;
- Someone given permission by parents;
- Babysitter/childminder;
- Teacher;
- Police;
- Principals; or
- Social workers.

Alternatives to physical punishment

In the final phase of activity two, the children were asked to think about the alternatives to physical punishment and the following options were proposed –

- bring the child in early;
- ground the child (for various periods);
- send the child to his/her room;

- talk to the child and explain what s/he did wrong;
- talk to the child and see if there is anything wrong;
- ask the child to behave;
- scold the child;
- stop the child's pocket money;
- have a naughty chair;
- remove privileges (e.g. games, computer or sweets);
- reason with the child;
- send the child to bed without supper;
- tease the child;
- threaten to smack the child or not to take him somewhere;
- do the same thing back to the child;
- issue a warning;
- make the child take responsibility;
- offer a reward for good behaviour;
- ban friends from coming over; and
- ban 'phone calls;

ACTIVITY THREE

The third activity sheet simply set out a number of situations and the children were asked to comment on the parent's approach and to apply their new rules to the relevant situations. However, on the whole, these sheets were not fully completed and it is, therefore, not possible to draw the information together in any meaningful way.

SECONDARY SCHOOLS

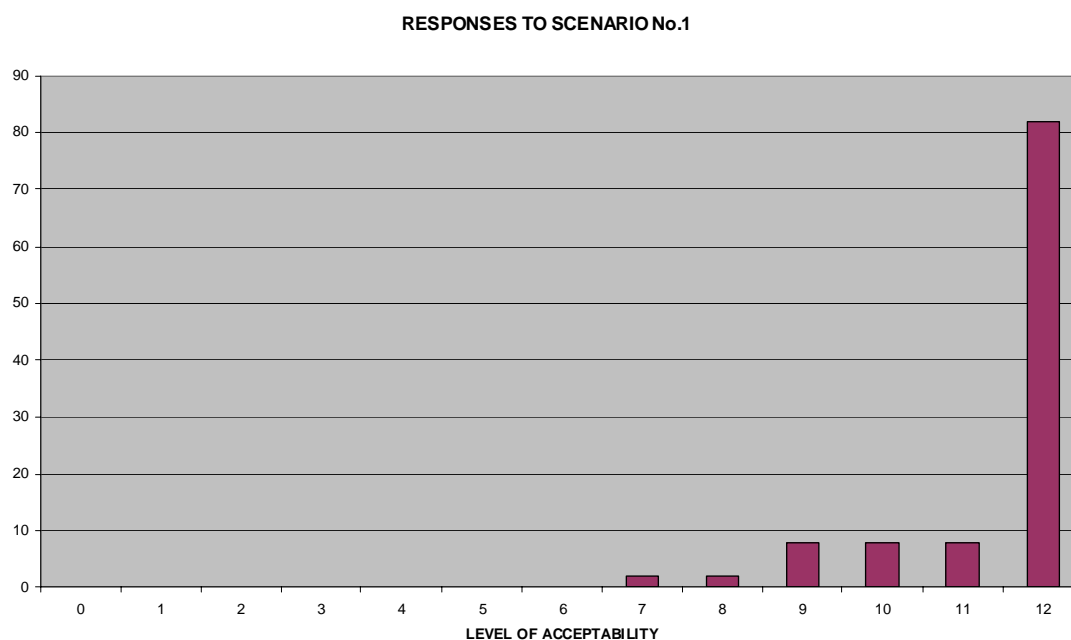
The consultation with the older pupils followed much the same pattern. However, the activity sheets were more detailed, to take account of the target age group.

ACTIVITY ONE

The first sheet set out 6 scenarios and the children were asked to say, on a scale of 0 to 12, whether the law should allow the punishment described (0 representing "definitely allowed" and 12 representing "definitely not allowed"). Each of the scenarios is reproduced below, together with a graph showing the children's responses and a summary of the factors that influenced them.

Scenario No. 1

A 15 year old girl is beaten with a brush handle and is badly bruised.



This scenario produced a fairly uniform response, with 82 of the children stating that the punishment was totally unacceptable and the remainder placing it at the far end of the acceptability scale.

The children in the majority group expressed concern about the use of a hard object and the likelihood of serious harm. This was reflected in the comments of a 15 ½ year old boy, who condemned the punishment as “extremely harsh” and declared that “no human being should be beaten with an object in a civilised society”. There was some suggestion that the punishment represented an abuse of power.

One boy said he had moved to a rating of 11 because he did not know how hard the girl had been hit. However, several children suggested that, if the girl was badly bruised, she had been hit more than a few times.

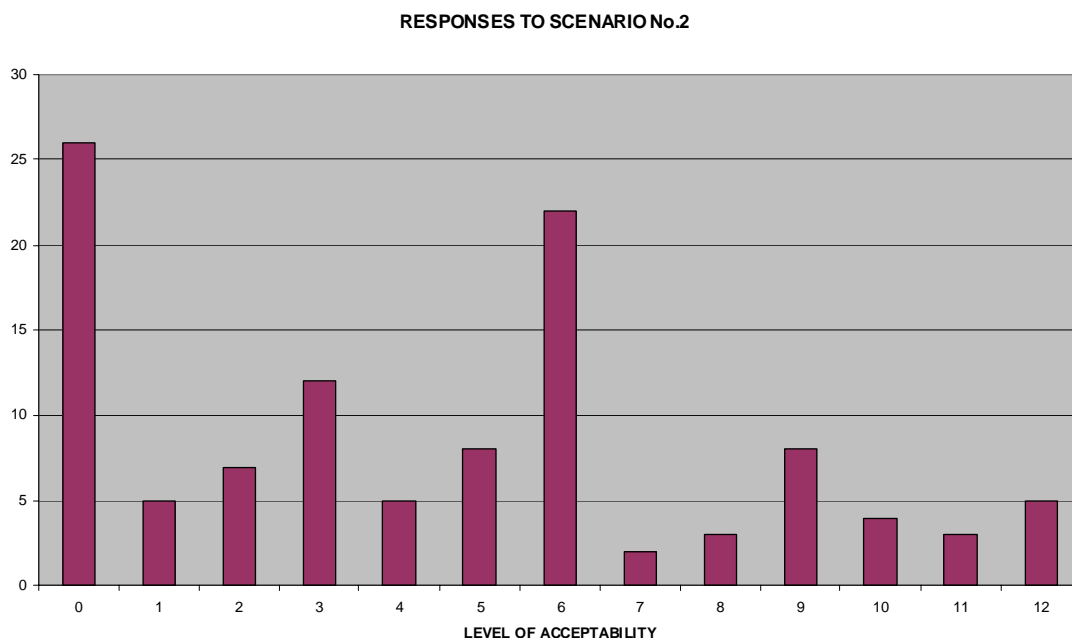
The children who opted for a rating of 9 said they had done so because they didn’t know what the girl had done. One went on to say that he could countenance injuries of this nature in a self-defence situation.

Other children recognised that the girl’s treatment was harsh, but suggested that it might be merited in extreme situations (e.g. for using drugs or getting pregnant). However, several children felt that such a level of force could never be justified, regardless of what has gone before.

Many of the children suggested other options, such as grounding or talking things through. This view was summed up by one boy, who declared that “a 15 year old can be talked to and compromise achieved”.

Scenario No.2

A 4 year old boy is slapped on the legs in a supermarket for running away.



Although this scenario provoked a mixed response, over half of the children felt that the punishment fell within a broad band of acceptability.

As with the primary school children, the pain of the punishment was weighed against the dangers associated with running off. Many children referred to the parent’s motivation (i.e. to protect the child) and to the perceived educational impact of the punishment. However, even then, it was recognised that there had to be limits and this was reflected in one boy’s comment that a “gentle slap is okay to teach the child”.

Many of the children who opted for a rating of 6 queried the level of force used. However, some went on to say they could accept the “cruel to be kind” argument, particularly if the child had been warned previously.

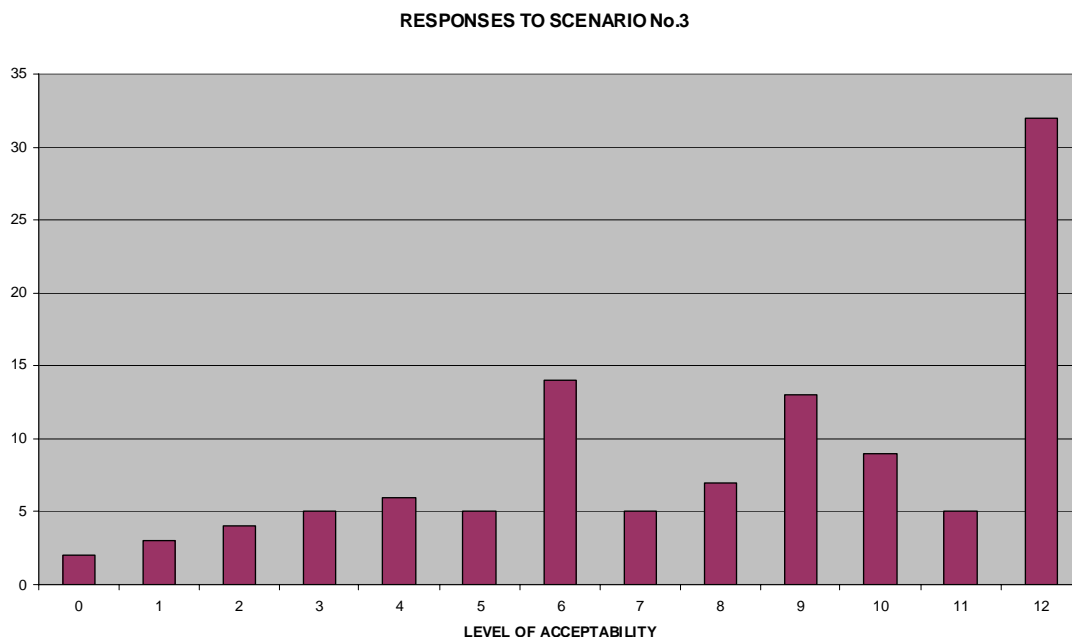
Some children felt that the child should have simply been told off, but others suggested that he would not have listened.

The children who placed this punishment at the far end of the acceptability scale felt that the parent should have explained why it was wrong to run off, rather than resort to slapping.

Several children recognised that shopping with small children could be stressful. However, a 15 year old boy, who gave a rating of 12, felt that one slap could lead to another and that the punishment could get “out of hand”.

Scenario No.3

A 12 year old boy is slapped across the face by his mother for being cheeky.



This scenario also produced a range of responses. However, the majority of the children placed it in the second half of the acceptability range.

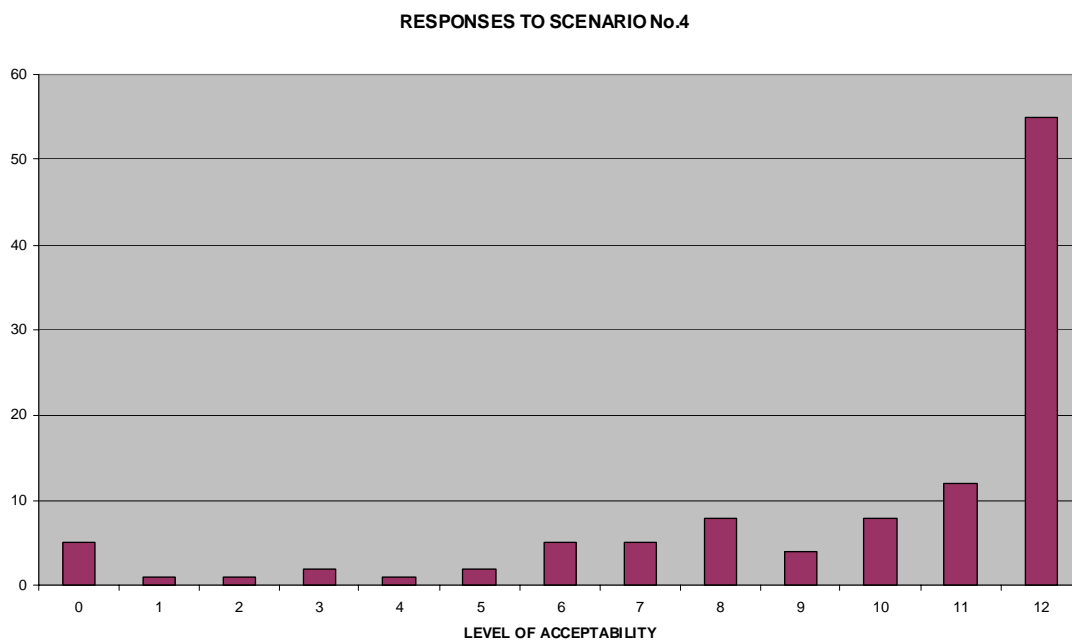
There was a strong emphasis on the need for respect and nearly all of the children accepted that the boy should be punished for his insolence. However, ultimately, most of the children rejected this form of punishment because of the potential for serious harm.

Some children raised the possibility of bruising to the face and awkward questions from friends. One child did, however, suggest that the boy deserved to be humiliated if he had humiliated his mother.

One girl, who opted for a rating of 4, suggested that the slap was necessary and would prevent future episodes of insolence. However, one boy, who gave a rating of 12, stated that the mother had lost control of the situation.

Scenario No.4

A 16 year old boy is punched by his father for answering back.



The vast majority of the children rejected this form of punishment. However, surprisingly, 5 children stated that the father's conduct was totally acceptable. These children suggested that the son was perfectly capable of standing up for himself and "hitting back". They also suggested that the son's behaviour could have provoked the heavy-handed response (e.g. if he had constantly caused friction within the family unit or had a history of answering back and nothing else had worked).

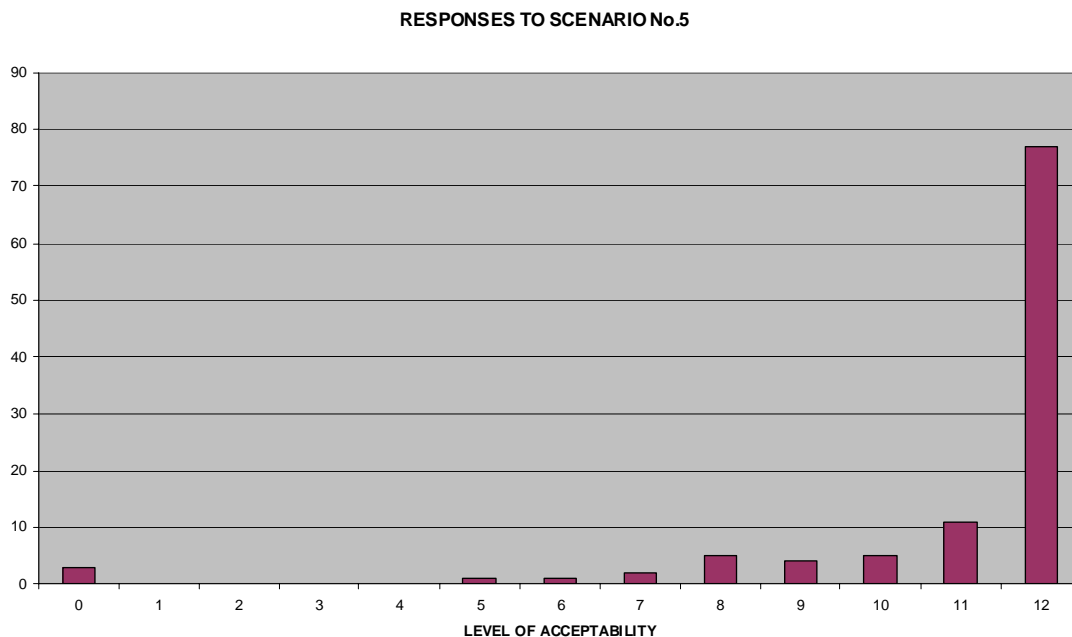
Similar arguments were used by the children who awarded a rating of between 1 and 5 (7 children in total). The force and location of the punch were also queried.

Some of the children who placed the punishment at the far end of the acceptability scale also recognised that teenagers could be very trying and there was talk of things going “in one ear and out the other”. However, ultimately, the punishment was rejected because of concern about possible damage to the face.

Most of the children in the majority grouping condemned the father’s actions as “too harsh” and referred to alternatives (e.g. grounding, discussing differences or removing privileges). Some children referred to the retaliation argument in passing, but rejected it amid fears of escalating violence. Many children were worried about a gap developing between father and son. Others condemned the father’s “bully tactics” and noted that similar conduct towards an adult would be classed as assault. One boy, who marked a rating of 12, declared that “the father ha[d] demonstrated total disrespect for another human being and for himself”.

Scenario No.5

A 6 year old girl is hit with her father’s belt for refusing to eat her dinner.



77 children rejected this punishment outright and only 4 children placed it in the first half of the acceptability scale.

Many children stated that the punishment was an unduly harsh response to an essentially trivial incident. One child specifically stated that the punishment was not moderate, as required by law. Others suggested that the child might have a valid reason for refusing to eat, such as sickness.

The lasting impact of the punishment was raised and one girl referred to a poem that had been written by a man who had bitter memories of his childhood beatings.

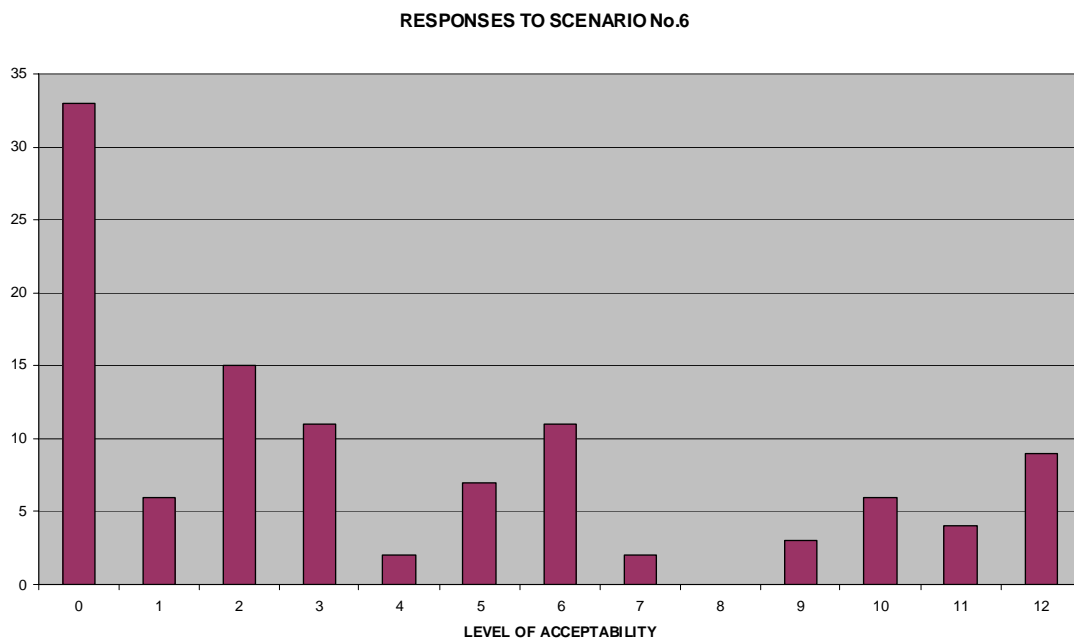
Interestingly, the retaliation argument was raised in passing, but rejected because a six year old is “not in a position to hit back”.

Possible alternatives were cited, including walking away, shouting, sending the child to her room and withdrawal of treats. The overall mood of the responses was summed up by one 15 year old boy, who declared—

“there are ways of reasoning and lashing out with a weapon is not the way. It is not a very good example to set a child.”

Scenario No.6

A 3 year old is smacked on the bottom for going too close to the fire.



Almost 68 % of the children were willing to tolerate this form of punishment, provided the child was not hit too hard. However, 9 children rejected it out of hand.

One girl declared that “violence and fighting has never solved anything...The home should be a safe, warm, loving environment. It shouldn’t be a place you can’t feel safe in. The world is full of violence and there is no need for any sort of physical abuse in the home.” This view was reflected by a boy, who stated that “ every slap, punch or kick a child gets changes their life for the worse when they grow up”.

Some of the children who opted for a rating of 6 suggested that the child could simply be spoken to. Others raised the issue of a fireguard.

By and large, however, a slap was deemed acceptable because of its educational impact and the absence of bruises.

ACTIVITY TWO

During the second activity, the children were asked to imagine that they were writing a law on physical punishment for a new community. However, only 62 children completed the activity sheet.

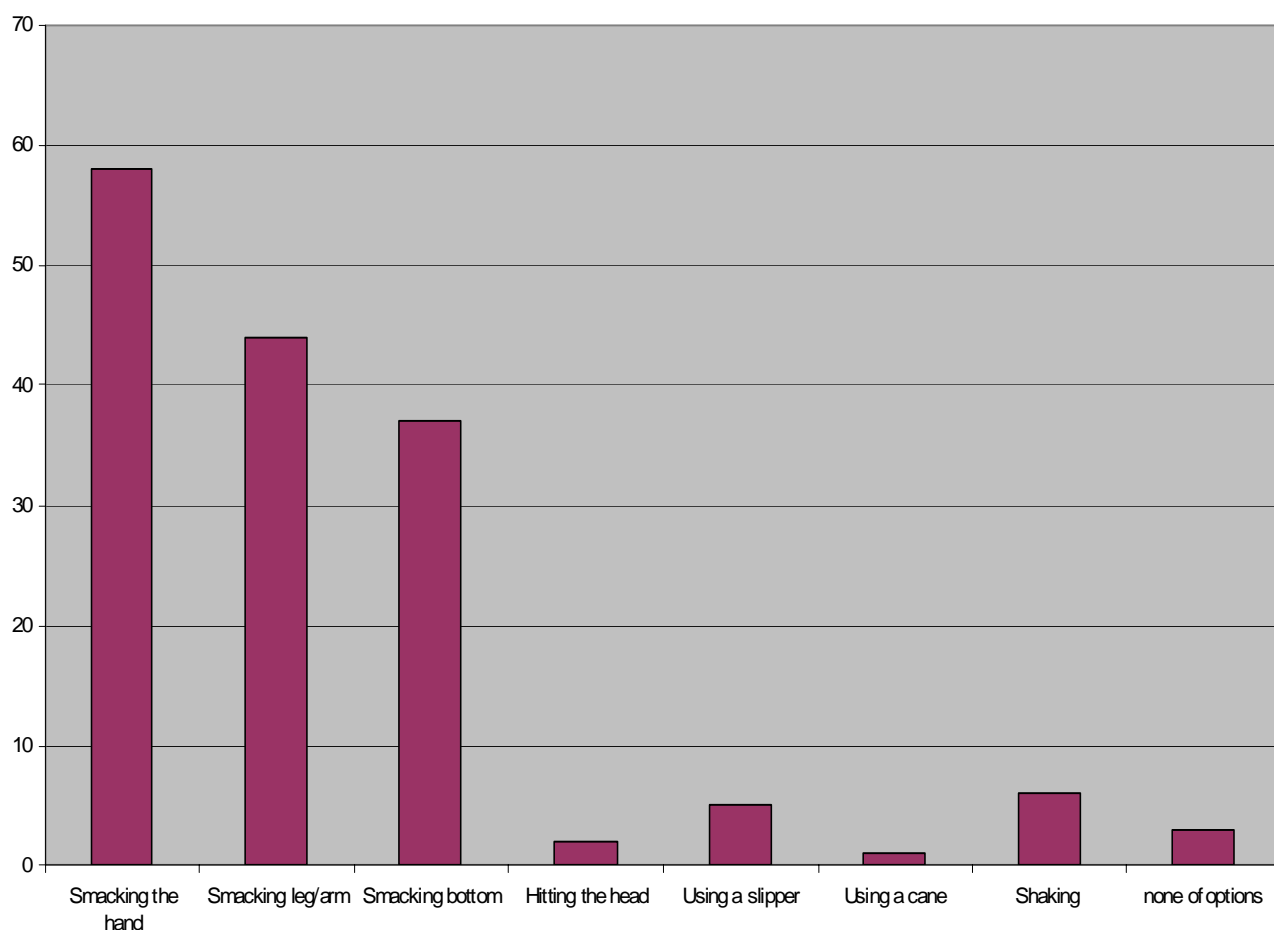
Should physical punishment in the home be banned?

At the outset the children were asked whether all forms of physical punishment in the home should be banned. 14 children stated that it should and 48 children stated that it should not.

What constitutes reasonable chastisement?

The children were then given a list of chastisements and asked to say which were reasonable. A smack to the hand was by far the most popular, attracting 58 votes. Rather surprisingly, 6 children were willing to tolerate a child being shaken, despite a spate of recent cases that have highlighted the serious injuries associated with “shaken baby syndrome”. Additional options suggested by the children were being grounded or being scolded/spoken to.

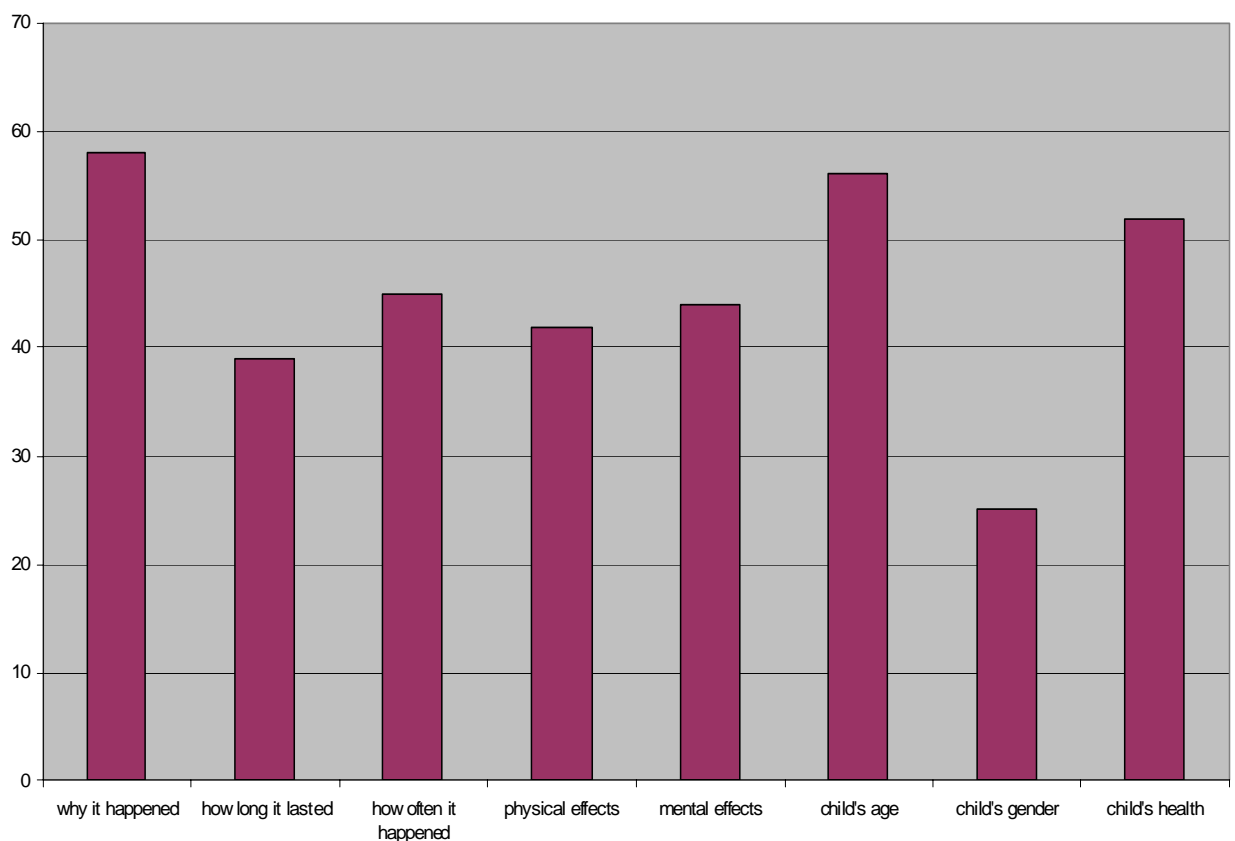
The following table records the full range of responses.



What should be taken into account when deciding whether the punishment was reasonable?

In the next phase, the children were given a list of considerations and asked to say what should be taken into account when deciding whether the physical punishment was reasonable.

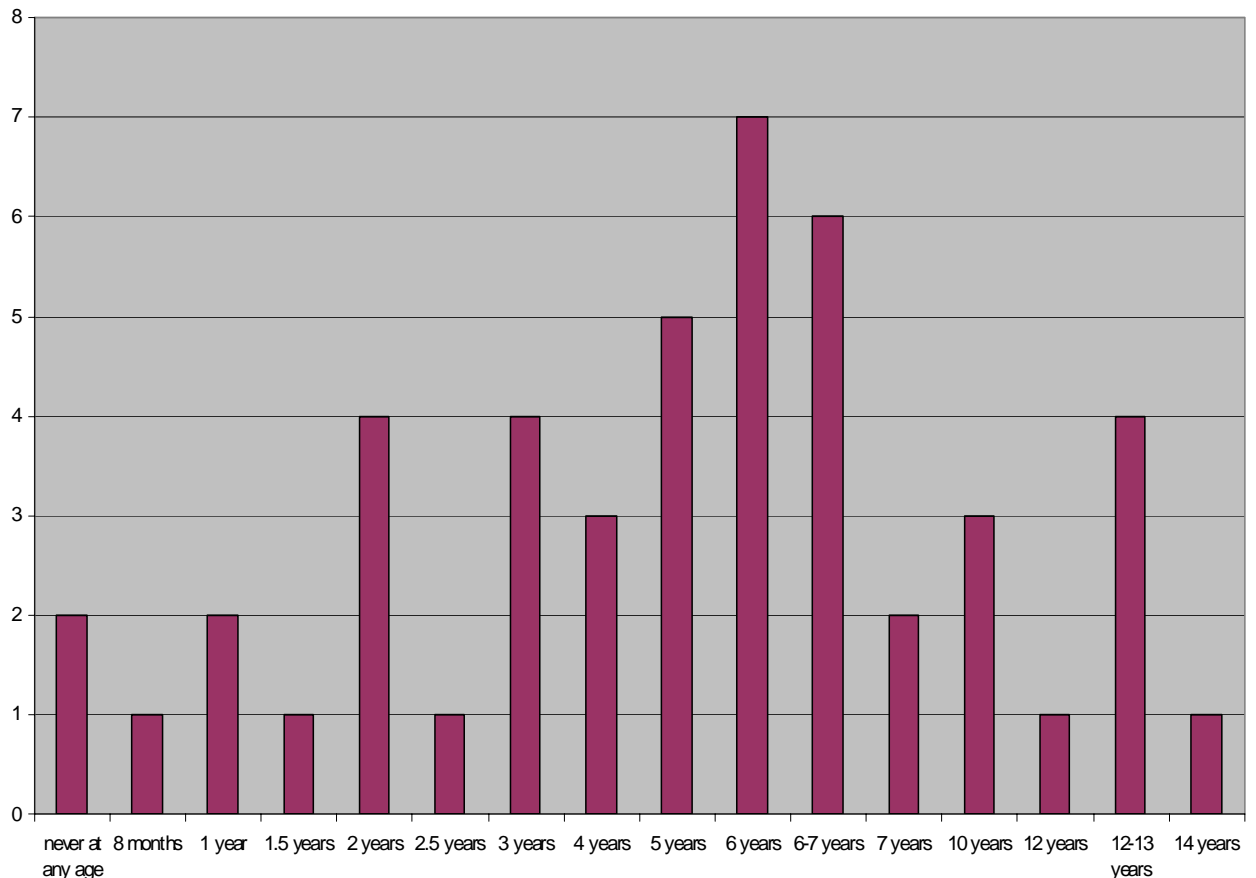
The events leading up to the punishment and the child's age and health were seen as crucial. The following table sets out the full range of replies. However, it is worth noting that some children proposed two further considerations: the child's personality and whether any instruments were used.



Should there be an age limit for physical punishment?

The children were asked if there should be an age limit below which children should not be physically punished. 79% of the children favoured such a limit (although several then proceeded to suggest that the bar should be set so low as to effectively outlaw all physical punishment) and the remaining 21% did not.

As the following chart shows, there was a spread of opinion, across the spectrum. However, the preferred age limit was 6 years, closely followed by 6-7 years.



Providing assistance

During the next phase, the children reflected on how the Government could help parents to find alternatives to physical punishment. The following options were proposed –

- help the parents to talk to their children in a positive way;
- produce videos or leaflets which assist in the parenting role;
- provide counselling;
- devise advice programmes/parent classes;
- set guidelines;
- highlight other methods of discipline (e.g. shouting);
- provide assistance with childcare;
- conduct research; and
- monitor developments in other countries.

There was some suggestion that the programmes/counselling should be compulsory, particularly if there is an issue over anger management.

Devising a new law

Activity two closed by inviting the children to devise their own law or write a short statement on rights and responsibilities. As the following cross section of responses shows, there was a general emphasis on the use of minimal force or possible alternatives and support for a ban on the use of implements–

“No smacking of children in any case.”

“Children should be smacked now and again, when it is appropriate. Nothing extreme. Just so they know not to do it again. Not under the age of 2 ½. Not allowed to use objects e.g. tools or belts.”

“Children shouldn’t be severely punished, no matter what they have done. It may be ok to slap (gently) a child if they have done something wrong, but they should never be slapped more than once for any one thing. Not allowed to use objects.”

“Children under the age of 6-7 should be punished mildly. Discussions and other options should be found when punishing children of an older age.”

“Children should be punished minimally under the age of 7. Discussions and other options should be considered when deciding on punishments. Children should be treated with respect and extreme chastisement should only be used in extreme circumstances.”

“You shouldn’t be allowed to hit a child seriously under the age of 5.”

“Between the ages of 5 and 11 years old it is ok to smack a child for a genuine reason. Under this age they will grow up knowing violence and over this age they will grow to hate you.”

“All children should be treated with care and respect and are entitled to a good and positive upbringing. No physical punishment which is aimed at the head or any vulnerable parts of the body. The use of any foreign object is not allowed at all. If the punishment can be handed out in a non-violent manner, so be it.”

“Parents have the right to discipline their children. However, this should be done in a non-violent way, where possible.”

“No child under 8 months to be hit and no beating with objects.”

“Physical punishment should be allowed, but not with any object apart from the hand. Children should not be beaten.”

“If physical punishment is used it should only be used to a certain point. Parents should not use hard punishment on their children as it could have effects in later life.”

“No use of cane or whip and not too much punishment.”

“Children under the age of 12 or 13 should be hit, but not very hard, just so they know they have done something wrong. They should be hit on the hand, leg or bottom. Children over the age of 12 or 13 - should try and talk to them about what they have done or take away some privileges.”

ACTIVITY THREE

As with the primary pupils, the third activity sheet simply set out a number of situations and the children were asked to comment on the parent’s approach and to apply their new rules to the relevant situations. However, again, these sheets attracted a poor response or were not returned and it is, therefore, not possible to draw the information together in any meaningful way.

SUMMARY OF, AND COMMENT ON, THE CONSULTATION WITH CHILDREN

Both the primary and secondary school pupils displayed a keen understanding of the challenges facing parents and recognised the need for discipline and appropriate levels of behaviour.

On the whole, the children were prepared to tolerate the occasional use of physical punishment, provided the level of force was kept to a minimum and implements were not used.

Most often, physical punishment was accepted in those instances where the child was in obvious danger or had received prior warnings about his/her conduct. However, even then, it was felt that consideration should be given to the age and level of understanding of the child and the availability of alternative punishments.

It was clear that some children were haunted by the spectre of punishment in public or of being marked and exposed to ridicule by their friends.

It was also clear that some children had a strong sense of family and an awareness of the potentially destructive impact of familial violence.

Among the older children there was a worrying, albeit minority view, that extreme physical punishment was acceptable if it could be met in kind. There was also some support for punishments that are known to be particularly dangerous, such as shaking.

The older children were willing to take a range of factors into account when determining whether the punishment was reasonable. However, the preceding events and the age and health of the child were identified as the most crucial considerations.

Nearly 80% of the older children favoured some form of age limit. However, it would be difficult to justify an arbitrary cut-off point, as there was support for limits on either side of the preferred limit of six years. This is all the more so because some of the primary school children voluntarily voiced support for an age limit of 4 or 5.

Almost 79% of the older children voted to retain the option of physical punishment. However, there was support for alternative methods of discipline and a recognition that the Government had a role in helping parents to pursue those methods.

RECENT DEVELOPMENTS

Since the conclusion of the consultation exercise, there have, been a number of significant developments.

The recent comments of the UN Committee on the Rights of the Child are of particular relevance. The Committee is responsible for monitoring compliance with the UNCRC and, from time to time, the UK must submit a report to the Committee to show that it is “in step” with the rights embodied in the Convention.

In 1995 the Committee registered reservations about the defence of “reasonable chastisement”, suggesting that the “imprecise nature of the expression of reasonable chastisement...may pave the way for it to be interpreted in a subjective and arbitrary manner”.¹

Those reservations were echoed in October 2002 when the Committee gave its concluding observations on the U.K. Government’s second periodic report under the Convention². On that occasion, however, the Committee went even further, saying –

“the Government’s proposals to limit rather than to remove the “reasonable chastisement” defence do not comply with the principles and provisions of the Convention... since they constitute a serious violation of the dignity of the child... Moreover, they suggest that some forms of corporal punishment are acceptable, thereby undermining educational measures to promote positive and non-violent discipline.”

In June 2003 the Westminster Joint Committee on Human Rights published its response to the UN Committee’s concluding observations³. Having noted that “there is no defence in UK law that a “reasonable” degree of physical assault on adults is permissible”⁴ and, having considered the case for retaining the defence of “reasonable chastisement”, the Joint Committee concluded that the defence was

¹ See paragraph 16 of the Report on the eighth session of the Committee on the Rights of the Child CRC/C/15/Add.34 (15/2/95)

² See paragraph 37 of the Report on the thirty-first session of the Committee on the Rights of the Child CRC/C/15/Add.188 (9/10/02)

³ Tenth Report of the Joint Committee on Human Rights (24/6/03).

⁴ See paragraph 96 of the Joint Committee’s Report.

“unacceptable” because of “the lack of respect it embodies for children’s entitlement to be free from physical assault”¹.

The Joint Committee’s report highlighted the comments of two other bodies on the issue. Firstly, it states that, in February 2003, the Committee of Ministers of the Council of Europe (the Committee is responsible for overseeing the operation of the ECHR) referred to the “continuing high degree of tolerance in respect of what constitutes “reasonable chastisement” and asked to be kept informed of developments “in particular as regards legislative change”². Secondly, it states that, in May 2002, the UN Committee on Economic, Social and Cultural Rights recommended that “the physical punishment of children in families be prohibited”³.

Other jurisdictions have also examined their own approach to the defence of “reasonable chastisement”. In November 2003 the Tasmania Law Reform Institute released its Final Report No.4, entitled “Physical Punishment of Children”.⁴ The Report, which followed the release of an issues paper in October 2002 and consultation with the public, noted that–

- legislation did not specify the type or degree of force that is “reasonable”;
- there was no consensus in the community about what constitutes “reasonable” punishment; and
- legal precedents are inconsistent.

The Report concluded that there was a lack of clarity in the law and suggested that this could result in children being exposed to excessive punishment. It proposed, therefore, that the law be reformed and one majority recommendation was that the defence of reasonable correction be abolished.

¹ See paragraph 110 of the Joint Committee’s Report.

² See paragraph 100 of the Joint Committee’s Report.

³ See footnote 196 on page 49 of the Joint Committee’s Report.

⁴ The Institute’s Report can be found on <http://www.law.utas.edu.au/reform/>

The Report also revealed that the South African Law Commission has advocated the removal of the defence of reasonable chastisement ¹ and that New Zealand is also reviewing the defence. Indeed, as the Report highlights, five church leaders in New Zealand have endorsed the repeal of the legislation that allows the use of reasonable force when disciplining children.²

¹ See page 24 of the Institute's Report.

² See pages 27-28 of the Institute's Report.

THE WAY FORWARD

It is clear from the consultation exercise that there is no consensus on the issue of physical punishment in the home and that the majority of individual respondents remain unconvinced of the need for change.

The Office of Law Reform, together with other interested Departments, will now give careful consideration to all of the submissions made during the consultation exercise and will continue to monitor national and international developments on this issue.

ANNEX A

FACTORS TO BE CONSIDERED WHEN ASSESSING WHETHER TREATMENT CONSTITUTES INHUMAN OR DEGRADING TREATMENT

NATURE AND CONTEXT OF THE TREATMENT;

ITS DURATION;

ITS PHYSICAL AND MENTAL EFFECTS; AND

**IN SOME INSTANCES, THE SEX, AGE AND HEALTH OF THE
SUBJECT.**

