

Physical punishment in the home - thinking about the issues, looking at the evidence

A consultation paper for Northern Ireland
Summary Version

Office of Law Reform
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This is a summary of the main consultation paper on physical punishment. If you are interested in the issues raised, you can find more information about them in the main paper. You can get a copy by ringing the Office of Law Reform on **(44) 028 90542900** or at **www.olrni.gov.uk**. Childrens' and young peoples' versions of this summary are also available at the same number and website.

Please take the time to respond. This is an important subject and we look forward to hearing your views.

Judena Goldring
Director of Law Reform



1. What is this consultation about?

This consultation paper is about the physical punishment of children. The consultation is taking place because our law may not meet up to our human rights and equality obligations. The first impetus was a case about a boy of nine who on several occasions was beaten by his stepfather with a garden cane, leaving bruises that lasted for a week. The boy's stepfather claimed the defence of "reasonable chastisement" and was acquitted by the jury. The case was then taken to the European Court of Human Rights, which said that our law does not do enough to protect children from "inhuman and degrading treatment" administered to them as punishment by parents or other people at home. The European Convention on Human Rights became part of our law in October 2000, and its standards now have to be applied in our courts. Other human rights bodies like the United Nations have also pointed out the human rights implications of physical punishment. It

is especially important for us in Northern Ireland to think about the human rights impact of our law because the Human Rights Commission is consulting on the scope for a Bill of Rights in addition to the European Convention.

We also have to look at the impact of our equality duties. As part of the Northern Ireland Act 1998, all public authorities have to have due regard to the need to promote equality of opportunity between different groups of people, including people of different ages. This means that we need to look at the way the law on physical punishment affects different groups of people - most obviously, children and parents.

Thinking about the issues

The use of physical punishment in disciplining children is not something about which people in Northern Ireland all agree. But people here do agree on many things about bringing up children. We agree that our children deserve to be nurtured and cared for.

We agree that they need effective discipline. We agree that care, nurture and effective discipline will equip them to take their place as responsible and mature members of the community. Any discussion of physical punishment takes place against this background. It has to be seen in its wider context of parenting and the support we as a society need to give to children, their parents and families. Remembering this enables us to move beyond thinking that the question is just a black and white choice between banning physical punishment or not banning it.

People have many different views and experiences of physical punishment. There is also an increasing body of medical, educational and psychological knowledge about family dynamics and child development which can help us all to think more clearly about the issues. The Minister and Department want to hear from as many people and groups as possible about what they think. We are especially eager to hear from parents, children and young people. We want to have an informed public discussion, in which everyone has a chance to listen to other points of view, to weigh up the evidence and to learn from each other.

Law reform and practical support

Unless things go badly wrong, law is very much in the background of most families' lives. Just changing the law

will not be sufficient in itself to protect children or to help parents and families. Nor can law alone provide for love, common-sense, self-sacrifice, fun or any of the other things that make family life worthwhile. That is why this paper asks what other forms of support - parenting programmes, information and sources of advice - can best help parents when they face discipline problems. It is also important to see this consultation in the wider context of the Interdepartmental Group on Children, which will be consulting very soon on a children's commissioner for Northern Ireland, and on a children's strategy. It will look at how we as a community can do the best we can for our children and their families.

The wider context - parents, children and discipline

Today we do not emphasise parents' rights so much as their responsibilities. Parents have a duty to guide their children to moral, emotional and physical maturity, enabling them to take responsibility for themselves when they are old enough. Parents' rights exist to be exercised for their children's benefit while the children are learning and growing to maturity. That is why the Children Order speaks of parental responsibility rather than parental rights. Children are increasingly seen as rights-holders, and this implies two things. First of all, parents and others sometimes need to uphold children's rights, or exercise them on the child's behalf when the child is too young to

do so for him or herself. Second, being seen as rights-holders implies that children are also people with responsibilities, who can play a positive role in families and the community. Parents' and children's rights and responsibilities are intertwined with each other, but when differences arise, balancing rights provides one way of talking about how to achieve a fair balance between family members.

Children need discipline. They need to have a clear understanding of boundaries. Effective discipline includes everything that teaches children how to behave appropriately, and how to relate to the world around them. It enables children to develop increasing independence and a sense of self worth. Discipline is about teaching, and a parent who praises a child for doing good, or suggests a way to solve a frustrating dilemma is exercising discipline just as much as a parent who punishes a child for doing something wrong. Helping children to understand why behaviour is unacceptable, and to change their behaviour will allow them to adopt the standard of good behaviour as their own rather than just complying because they don't want to be punished. Thinking about what effective discipline is, and about what we are trying to do when we discipline our children, is an absolutely necessary context for thinking about physical punishment.

We define physical punishment in this paper to describe any action which is

intended to cause a child physical pain or discomfort, with the intention of punishing him or her. Our attitude to the legal issues surrounding physical punishment will be determined by our attitude to two wider questions:

- > Does physical punishment work as a discipline strategy for children?
- > Is physical punishment bad for children?

A lot of research has been done in other countries about physical punishment, and it tells us some important facts:

- > As many as 90% of parents in England and the US physically punish their children.
- > Physical punishment is less effective than other discipline strategies. It does not help children to take responsibility for their own behaviour or encourage them to adopt moral values as their own. It may lead to immediate compliance but does not improve long term behaviour.
- > Parents are more likely to physically punish their children if they are under stress, from the child or from outside pressures. This adds to the risk of physical punishment becoming more serious.
- > People who have been physically punished as children are more likely to physically punish their own children. Severe physical punishment also "runs in families" in this way.



- > Physically abusive parents often justify their behaviour as reasonable physical punishment.
 - > The majority of researchers point to an association between physical punishment and aggression. Harsh physical punishment is associated with later criminal behaviour, substance abuse, violent family relationships and mental health problems.
 - > Some researchers argue that where parents have established a warm, engaged, rational relationship with their children, they can use moderate physical punishment with no ill effects.
- > talked about “physical punishment such as smacking or hitting”. It showed that:
 - > 45% of parents said they used physical punishment with their children.
 - > 36% of parents (and 29% of non-parents) said that physical punishment was an acceptable form of punishment.
 - > Older people were more likely to have used physical punishment and to approve of it than younger people. 19% of people between 16 and 24 thought physical punishment was acceptable, compared to 55% of people over 65. People over 50 were much more likely to think physical punishment was acceptable than people under 50.

There has been very little research about physical punishment in Northern Ireland. The Office of Law Reform asked the Northern Ireland Statistics and Research Agency to do a survey about physical punishment in March 2001. It makes a start in telling us what people here do and think about physical punishment. Responses to this consultation will also help us to find out more about this. The survey

The research shows a strong trend for younger people to be less in favour of physical punishment. This indicates that attitudes and practice may be changing.

What works?

The important wider question is what forms of discipline work for parents in Northern Ireland. Every parent has tried a variety of different discipline strategies. Increasing knowledge of child development and psychology suggests that effective discipline aims to:

- > Stop unacceptable behaviour in the short and long term;
- > Help children to understand why certain behaviour is unacceptable;
- > Show children acceptable alternative ways to behave;
- > Help children to take responsibility for their own behaviour;
- > Help children to adopt moral values for themselves.

Punishment is just one part of discipline, and the research shows that physical punishment doesn't achieve any of the goals above except to stop unacceptable behaviour in the short term. Some discipline strategies which parents have found to achieve more of

these goals include:

- > Having clear ground rules enforced consistently by all the adults in the house.
- > Distracting a baby or young child from unwanted behaviour.
- > Ignoring mild unacceptable behaviour.
- > Building a warm open relationship, and communicating clearly and authoritatively (but not aggressively) with children.
- > Taking time out until a child has calmed down.
- > Grounding or withdrawing treats.

Friends, relatives, childcare books and parenting programmes may all have helped parents to deal with discipline issues. The key to helping families with discipline issues is for us as a community to provide the support which parents actually need. Parent education and support are vital - for example programmes offering information and advice to parents

whose children are the same age, or who are facing the same challenges, can offer them the chance to get together and share their experiences. Many such programmes already exist in Northern Ireland. The Office of Law Reform and Department of Health, Social Services and Public Safety will use the response to this paper to decide how best to make sure that all parents in Northern Ireland have access to the support, information and advice which they deserve in bringing up their children. That is why we would like to hear from parents and other people about whether they find initiatives like parenting programmes useful, and about what more can be done to make sure that all parents have access to the help they deserve in dealing with discipline issues.

Consultees are invited to answer the following questions, giving reasons for their views:

1. *What is the goal of effective discipline of children?*
2. *What are the ways in which this goal is achieved?*
3. *In the light of the evidence and of your experience, do you think that physical punishment by parents is an **effective** form of discipline?*
4. *In the light of the evidence and of your experience, do you think that physical punishment by parents is an **acceptable** form of discipline?*
5. *If you are a parent, please tell us*

about the people or organisations who have been most helpful to you in helping you to deal with any discipline problems you have faced.

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?*



2. The law at present in Northern Ireland

- > Reasonable chastisement by parents is a defence to a charge of assault in criminal law. It is available to parents or those in charge of children, and is also available for more serious charges like assault occasioning actual bodily harm or child cruelty. The standard of reasonableness was not defined until very recently and this uncertainty was criticised by the European Court of Human Rights as not protecting children adequately. The European Court suggested some factors which should be taken into account in determining reasonableness. As the Human Rights Act 1998 made the European Convention part of our law, and following a recent case in England, judges now take these factors into account.
- > Reasonable chastisement is also a defence at civil law to a claim for damages for assault or battery.
- > Physical punishment is not a specific factor in determining contact and residence issues if parents separate, or in care cases. But like any other aspect of a child's upbringing, seriously inadequate or inappropriate discipline of all kinds may be taken into account by the court. None of the reforms outlined in this paper will change this law.
- > Teachers and others working in schools, those working in residential care homes, and those working in the juvenile justice system, are not allowed to use physical punishment on the children and young people in their care.
- > There is no specific statutory prohibition, but guidance makes it clear that physical punishment is not to be used in foster homes, private day care settings or with childminders.
- > Teachers in private schools may still use reasonable and moderate physical punishment on privately

funded pupils, but the Department of Education intends to change this.

- > Family members, neighbours and babysitters who are left in charge of children still have a parent's delegated authority to use reasonable and moderate physical punishment.

Human Rights standards

The European Convention on Human Rights is special, because the Human Rights Act 1998 made it part of our law, so it can be enforced in our courts. Other international human rights treaties can't be enforced in our courts, but represent standards to which the government has signed up. The Human Rights Commission is consulting at present about the scope for including more of these standards in a Bill of Rights for Northern Ireland. The European Convention, the United Nations International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of the Child all say things which are relevant to physical punishment. In summary, these are:

- > The defence of "reasonable chastisement" was not clear enough, without further definition, to protect children from actions which breach their right to be free of torture, inhuman or degrading treatment, or to physical integrity. All the international bodies agree on this.

- > The treaties say that everyone should have equal protection under the law.
- > The UN Committees say clearly that the law should not permit physical punishment in the home.
- > The UN Committees and the Council of Europe (which drew up the European Convention) also say that it is important not just to change the law, but to help parents learn about other effective discipline strategies and to educate the public.

7. Do you have any comments about this analysis of the requirements of international human rights law?



3. The law in other countries

The consultation paper looks at the law on physical punishment in other countries. Some places, like most of the United States and Canada have a defence of “parental reasonable force”, which is like our defence of reasonable chastisement. They define what is reasonable in case law or in statute, because they recognise that the standard can be quite uncertain. But even if the law sets out the factors which a court has to take into account in deciding if the punishment was reasonable, some judges, especially in Canada, have said the law is still too unclear, is inconsistently applied, and is incompatible with human rights standards.

Other countries, including Sweden, Finland, Denmark, Norway, Austria, Italy and Israel have ended physical punishment. Germany and Iceland are in the process of doing so. Although their legal systems vary greatly, the reasons for reform have often been the same, and include reference to:

- > The increasing recognition of children’s human rights in international law;
- > Medical, educational and psychological opinion which says that physical punishment does not work and is bad for children;
- > The desire to bring children up in a society which does not tolerate violence.

These countries show two main ways of responding to these factors:

- > To simply remove the defence of reasonable chastisement;
- > To enact an explicit ban on physical punishment, which does not usually have any sanction attached, as it is intended to be educational rather than coercive.

Some of these countries, especially Sweden, have made a point of keeping records and studying the effect of ending physical punishment. In Sweden, fears about a change in the law have not been borne out. There has not been an increase in prosecutions of parents or of children

being taken into care. In fact physical punishment is now much less acceptable to ordinary people than it was a generation ago, and is used less often.

Developments closer to home

In England and Wales, the equivalent consultation paper to this one (*Protecting Children, Supporting Parents*) recommends that the defence of “reasonable chastisement” be redrawn so as to exclude all inhuman and degrading treatment. A statute would set out the factors which a court has to take into account in deciding whether a given punishment was reasonable, as was suggested in *A v UK*, and including at least the factors which the courts now take into account following that case. The paper also suggests limiting the defence in other ways; like limiting the sorts of actions which can be claimed to be reasonable (for example, not physical punishment with a belt), limiting the offences to which it can be a defence (for example, only common assault), or limiting the people who may claim the defence (for example, only people with parental responsibility).

In *The Physical Punishment of Children: A Consultation*, the Scottish Executive asked whether physical punishment should be ended in Scotland. Like the English paper, it

suggests that the defence of reasonable chastisement be redrawn in a new statute. It also proposes ending physical punishment in child care centres, by childminders and in non-publicly funded pre-school centres.

The Irish government is committed to ending physical punishment by education of parents and the public, and to this end the National Children’s Strategy Report *Our Children - Their Lives* says that quality parenting programmes are to be made available to all parents, which will focus on alternative approaches to managing difficult behaviour in children.



4. Reform for Northern Ireland

Criticisms of the existing law

A number of criticisms of the defence of reasonable chastisement have been influential in reform of the law elsewhere:

- > The law is too uncertain to protect children.
- > The law does not give children the same level of protection or remedy as it does adults in a case of assault.
- > The law does not give parents a clear idea of where they stand.
- > The law breaches human rights standards.
- > The law does not take account of medical, educational and psychological evidence which says that physical punishment is not an effective form of discipline, and that it harms children.

- > The law on physical punishment does not play its part in creating a society which is free from violence.

Objectives of reform

It is useful to set out a range of possible objectives by which we may select the most appropriate option for reform. Such a list might include:

- > To bring Northern Ireland into full compliance with the Human Rights Act and our international human rights obligations.
- > To comply with the equality requirements of the Northern Ireland Act 1998.
- > To protect children adequately.
- > To ensure the law is clear, simple and workable, so that parents know where they stand.
- > To ensure that the law is acceptable to people in Northern Ireland.
- > To send out a clear message about what behaviour is unacceptable in families.

- > To assist in bringing up our children in a society free from violence and to teach them non-violent ways of settling their disputes.

The context of reform

Whatever reform option is chosen, it is clear that legislative reform on its own will not do enough to help parents or children. This is why the question was asked earlier about what help parents and others found most useful in dealing with discipline problems, and what further provision was needed to make sure all parents could access help. The consultation also takes place in the context of the consultation by the Interdepartmental Group on Children on a children's strategy. Parenting and support for parents are an absolutely vital context for any discussion of legislative reform.

Options for legal reform in Northern Ireland

Leave the matter to the courts

The English Court of Appeal in *R v H (reasonable chastisement)* (25 April 2001) said that because the Human Rights Act 1998 makes the European Convention part of our law, when they are determining what is "reasonable chastisement", judges and juries should take into account the nature and context of the defendant's behaviour, the duration of the behaviour, the physical and mental consequences of the behaviour for the child, and the age and personal

characteristics of the child. These are the factors set out by the European Court of Human Rights in *A v UK*. The English Court of Appeal also added a fifth factor, namely the reasons given by the defendant for administering the punishment.

Comment

Even if the courts did nothing more than the judgement in R v H, it could be argued that they have brought our law into line with the Convention Rights for the time being. But they do not bring our law into compliance with the full range of our human rights obligations in international law, nor with the equality obligations of the Northern Ireland Act. Also, the European Convention is a living document, and it should not be assumed that this limited reform will satisfy Convention standards as they develop. Further action is still necessary.

Limit the reasonable chastisement defence

We could set out in statute the factors which the court should take into account in determining what is reasonable chastisement. These could include the *A v UK* factors, as well as the additional factor in *R v H*. We could also add other factors such as the parent's intention. In parts of the United States an intention to punish is required, and already in our law a parent who strikes a child in anger is unlikely to be able to use the defence.

Comment

This option would bring us into line with our human rights obligations under the European Convention as presently interpreted. But it does not bring our law into compliance with the full range of our human rights obligations in international law, nor with the equality obligations of the Northern Ireland Act. Also, the European Convention is a living document, and it should not be assumed that this limited reform will satisfy Convention standards for ever. This reform goes further to protect children than our existing law and would be clearer than leaving matters to the courts. But it is still not particularly clear or simple. Nor does this option send out a clear message about what behaviour is unacceptable in families, or what we, as a society, feel about violence.

Further limitations on the defence

As well as setting out a list of factors to be taken into account, a statutory defence could be further limited. It would be possible to:

- a Limit the criminal charges to which reasonable chastisement is a defence, for example not permitting it in relation to charges more serious than common assault.
- b Limit the people who can claim the defence, for example by:
 - i. including only those with parental responsibility for the child;
 - ii. including only those with parental responsibility and people they have expressly permitted to apply physical punishment to the child.
- c Limit the forms of chastisement which can be reasonable, for example;

- i. excluding hitting with instruments such as canes, belts or slippers;
 - ii. excluding certain kinds of physical punishment which are particularly dangerous, such as hitting a child on the head or shaking him or her, which could cause brain damage.
- a Limit the children who can be physically chastised, for example by excluding the very young.

Comment

These further limitations would increase the protection for children. But they are far from clear and simple. Some, more than others, would send out mixed messages about what behaviour is unacceptable. For example, saying that hitting a child with a cane, belt or slipper is not reasonable chastisement could make some people think that the law is saying it is acceptable to do other, equally serious things like hitting a child with a closed fist. Limiting the people who can physically punish children would also be very hard to do.

Civil and criminal law

Any reform of the defence in criminal law could apply to the civil law (actions for damages) too.

Remove the reasonable chastisement defence

If the defence of reasonable chastisement were to be removed from the civil and criminal law, other defences like self-defence would still be available, and the Director of Public Prosecutions could use his discretion not to prosecute when it would not be in the public interest to do so. This discretion, which is applicable in cases involving adults, would allow trivial cases and other cases which should not come to court, to be filtered out.

Comment

This would be procedurally the simplest option and would give adults and children equal protection in law. But in some countries where the defence has been removed, without anything further, a degree of uncertainty has remained. The following paragraphs suggest how this may be dealt with.

Introduce a statement of rights and responsibilities

Apart from removing the defence of reasonable chastisement, it would be possible to enact a statement about physical punishment which did not have any sanctions attached to it, whether as a statement of abolition, a statement phrased in some other way, or part of a more general statement

about rights and responsibilities in families. At present, as the DHSS&PS Departmental Committee has suggested, we are considering adding to the legal definition of parental responsibility, to make it clearer what rights and duties parents have. At present, our law just says that parental responsibility includes

“...all the rights, duties, powers, responsibility and authority which by law a parent of a child has in relation to the child and his property” (Children (NI) Order 1995, Article 6).

The Scottish equivalent, the Children (Scotland) Act 1985 sets out some of a parent’s responsibilities, including the responsibility to safeguard the child’s health, development and welfare, to provide guidance to the child and to maintain contact with him or her.

In other countries, the equivalent of the Children Order includes a statement about physical punishment. The Swedish law says

“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 injurious or humiliating treatment”.

The Austrian law says:

“The minor child must follow the parent’s orders. In their orders 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”.

It would be possible to tailor a statement of rights and responsibilities to include a reference to the responsibilities of both children and parents. Although both examples cited above, used such a statement to declare an end to physical punishment in their countries, the statement could also be aspirational - it could say that parents should aim not to use physical punishment. We want people to tell us whether they think such a statement would be useful, and the legal effects they think it might have.

Comment

This would be part of the civil law, not the criminal law. It would be designed to help parents and children know where they stand. Such a statement would be clear and simple, but flexible. It could be tailored to the situation of children of different ages, and/or to emphasise the importance of effective and appropriate parental discipline. It could stand alone or be enacted alongside any of the options for reform of the defence of reasonable chastisement.



You are invited to answer the following questions:

1. Does this chapter contains the full range of law reform options open to us?

Reform of the defence of reasonable chastisement

2. 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?

3. 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.

4. 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.

A statement of rights and responsibilities

5. In your view, is there merit in including a statement of rights and responsibilities of the type outlined in this chapter in our family law?

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

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

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

5. Equality impact assessment, TSN & Regulatory Impact

The consultation paper includes an equality impact assessment carried out in accordance with the Equality Commission's guidelines. We are required by the Northern Ireland Act 1998 to have due regard to the need to promote equality of opportunity between:

- > People of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- > Between men and women generally;
- > Between people with a disability and those without;
- > Between people with dependents and those without.

Consideration of available data and research

There is very little data available on physical punishment in Northern Ireland. The NISRA survey commissioned by OLR indicates that older people are more likely to approve of and to use physical punishment than younger people. This is discussed earlier in this summary.

Assessment of impacts

The equality impact assessment identifies the main equality impact as age - children are physically punished and adults are not. It also asks whether there are possible equality impacts for other groups, including religious and cultural minorities and the disabled. We will be consulting with members of the equality groupings to get more information about this. We are also aware that it can be said that not all children have equal opportunities in life because of their experience of physical punishment, and not all parents have equal opportunity to access services to provide information and support in dealing with child rearing issues.

The question to be answered

Our duty is to look at how we may promote equality of opportunity between people in relation to the issue of physical punishment.

We need to be clear about whose opportunity we are comparing. The main groups are adults and children. We should also remember that different parents and children may have different opportunities because they come within different equality groups, and we will have due regard to the duty in relation to them too.

In comparing people's equality of opportunity, we need to ask - "Equality of opportunity about what?" It may be easiest to formulate answers to this question in the form of statements of objectives. These objectives may be stated in absolute terms or with an indication of the other factors against which they must be balanced in giving "due regard" to them, for example:

- > Children and adults should have equal protection under the law.
- > Children in all the equality groupings should have an equal opportunity to be brought up in a safe and nurturing environment.
- > Parents in all the equality groupings should have an equal opportunity to access services which will help them provide a safe and nurturing environment for their children.
- > Parents in all the equality groupings should have an equal opportunity to regulate their family life in private in accordance with their own views,

subject to the best interests of the children and the human rights of all family members and the wider community.

(e) Measures which might mitigate adverse impacts or better achieve the promotion of equality of opportunity

The equality duties mean that we have to give due regard to how to mitigate any equality impacts and how to promote equality of opportunity when we decide on a policy on physical punishment.

The full range of options for reform discussed in this paper are:

- > Limiting the scope of the defence of reasonable chastisement in civil and criminal law.
- > Removing the defence of reasonable chastisement from the criminal and civil law.
- > Including a statement of rights and responsibilities in the legal definition of parental responsibility.
- > Encouraging the development of parenting programmes.

The most obvious ways to mitigate the adverse impacts identified and to better promote equality of opportunity would be to remove the defence of reasonable chastisement and to encourage the development of support for parents, which would also indirectly help children. The second of these cannot be achieved by legislation



alone, but requires social action. This paper asks what forms of support, such as parenting programmes, parents, professionals and others in the community find most useful. The standard of “due regard” requires us to balance equality of opportunity with other relevant factors, and it is the balance of all the factors discussed elsewhere in the paper which will ultimately decide Executive policy. Consultees are invited at this stage to provide their assessment of the best way forward in the light of our equality duties.

(f) Consultation

In this exercise we are seeking the views of parents, children and the wider community. The views of children and young people are particularly important to this consultation, and will be actively sought. The Office of Law Reform will in particular seek the views of parents and children and those belonging to the other equality groups. Their views will be taken into account in determining final policy, and the result of the consultation with them will

be published and disseminated along with the publication of the results of the general consultation.

Consultees are invited to respond to the following question:

1. Do you agree that the main equality impacts of this issue are on children and those with dependants?
2. Do you have any comments on the other equality impacts identified or anticipated?
3. Are there, in your view, any further equality impacts which have not been identified?
4. In relation to what objectives is there a need to promote equality of opportunity in relation to physical punishment?
5. 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.
6. Would you consider any other ways of mitigating the equality impacts of physical punishment or better promoting equality of opportunity?
 7. 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.

New TSN assessment

“New TSN” is the phrase used to describe the requirement that public authorities consider ways of Targetting Social Need in the development of new policies. Research does not show that socio-economic status (being rich or poor) itself makes it more or less likely that parents will use physical punishment. But physical punishment is experienced more by children in families which are undergoing stress, whether based on financial, relationship or other difficulties. Some families may have less access to the support networks which other families take for granted. Severe physical punishment carries increased risks of aggression, criminal offences, mental health problems, substance abuse and emotional problems, all of which undermine young people’s opportunities in life.

It therefore seems that any initiatives to give parents the information, education and support they need in raising their children are directly relevant to tackling disadvantage. A range of means of delivering parenting programmes will be necessary to ensure that all parents in Northern Ireland have access to them, and the Office of Law Reform and Department of Health, Social Services and Public Safety will bear this in mind when considering this matter.

Do you have any comments on this New TSN assessment?

Regulatory Impact Assessment

Removal or reform of the defence of reasonable chastisement does not have any great regulatory impact. Experience in other countries suggests that it is unlikely to lead to an increased number of prosecutions, nor to an increase in children being taken into care or social services investigations. Publicity and information given about any change in the law will require resourcing, as will the development of parenting programmes. Costings of the policies chosen will be considered fully at the next stage of consultation.

Do you have any comments on this Regulatory Impact Assessment?

Replying to the consultation

It is important that people of all ages and from all walks of life in Northern Ireland have an opportunity to give their views on this consultation paper. You can reply by post or by e-mail at the addresses below. The full consultation paper, as well as special versions for children and young people are available on the OLR website, at **www.olrni.gov.uk** or by telephoning the Office of Law Reform. Children, young people, their teachers and youth leaders are particularly encouraged to take part in the consultation. Face-to-face consultations will take place throughout Northern Ireland with groups of adults, children and young people, as well as with members of the equality groups. If your group would like a meeting, please ring the Office of Law Reform. If you would like a copy in a different language or a disability-friendly format, please contact the Office of Law Reform. Please also let us know if there is anything we can do to make it easier for you to respond to the consultation.

Consultation responses are usually made available to Assembly members and Committees. If you would prefer your reply to be kept confidential, let the Office of Law Reform know this when you send it in.

