**Norfolk Safeguarding Children Partnership**

**Physical Chastisement Statement**

The Norfolk Safeguarding Children Partnership (NSCP) believes that corporal punishment and physical chastisement should not play a part in the discipline of children. It conveys a negative message in relation to the benefits of discipline through violence, and there are both short-term and long-term harmful effects on children. Physical punishment can include but is not limited to; smacking, slapping, pinching, pulling, hitting with an object, making someone eat noxious substances (e.g. soap, hot sauce or hot pepper) or enduring stressful positions for long periods. The physical punishment of children in whatever form is hurtful, unnecessary, and likely to be harmful either physically or emotionally. Physical punishment models aggressive behaviour as a solution to conflict and has been associated with increased aggression in preschool and school children.[[1]](#footnote-1)

Currently, physical punishment is legally allowed in the UK as long as no ‘actual bodily harm’ is caused, and it is considered ‘reasonable punishment’. Any form of physical punishment that leaves a mark on a child or young person is considered an assault and is illegal under Section 58 and can result in a conviction and custodial sentence of up to 5 years. The Children Act (2004) states in section 58 that ‘Battery of a child causing actual bodily harm to the child cannot be justified in any civil proceedings on the ground that it constituted reasonable punishment.’

It is difficult and not practicable to distinguish between different forms of physical punishment, either between different parts of the body that are smacked, or between different outcomes (e.g. bruising vs non-bruising) and all are forms of violence. NSCP takes the position that there is no justification for inflicting pain on a child or young person as a parent (or any other adult carer). The UN Committee on the Rights of the Child[[2]](#footnote-2) has definitively stated that physical punishment is a form of violence that violates children’s rights to protection, dignity, and physical security.

Physical punishment can affect a child’s physical, emotional, and mental health which can continue into adulthood. Physical punishment can cause:

* anxiety, isolation, feeling victimised, low self-esteem, withdrawn behaviour
* risk of anti-social behaviour
* aggression in children including fighting and using violence for attention
* injury such as bruises, cuts, reddening of the skin, scratches, swelling or even broken bones
* belief that violence is acceptable
* violent and criminal behaviour in adulthood
* breakdown in family relationships increased violence between parents and children

NSCP considers that corporal punishment should not be accepted as a component of good parenting, and every effort should be made to ensure that all parents are educated, informed and supported to care for their children using acceptable forms of discipline and boundary setting.

**What the law says about physical punishment**

### It is unlawful for a parent or carer use physical punishment to discipline their child. Legislation under the ‘Offences against the Person Act 1861 [[3]](#footnote-3)– *whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapons or instruments’* and ‘Children and Young Persons Act 1933’ – which states any person who has responsibility for any child or young person under the age of sixteen wilfully assaults or allows them to unnecessary suffering or injury (Legislation.gov, 2021).

### Law in England

[Section 58 of the Children Act 2004](http://www.legislation.gov.uk/ukpga/2004/31/section/58) continues to apply in England. This section states that reasonable punishment may only be used as a defence to an allegation of common assault or battery. Section 58(2) states that reasonable punishment is not a defence to offences under section 47, section 20, and section 18 of the Offences Against the Person Act 1861 or to section 1 of the Children and Young Persons Act 1933.

If a prosecutor determines that the correct change is common assault or battery, then the next determination is whether the punishment inflicted was moderate and reasonable. The Court of Appeal in the case of R v H [2001] 2 FLR 431 adopted the guidance set out in the case of A v UK (1999) 27 EHRR 611 and accordingly extended the factors to be taken into consideration when considering reasonableness. The following factors will assist in determining whether the punishment in question was reasonable and moderate.

* the nature and context of the defendant's behaviour;
* the duration of that behaviour;
* the physical and mental consequences in respect of the child;
* the age and personal characteristics of the child;
* the reasons given by the defendant for administering the punishment.

## **Reasonable punishment of a child: Selection of charges**

The vulnerability of the victim, such as being a child assaulted by an adult, should be treated as an aggravating factor when deciding the appropriate charge. Injuries that would usually lead to a charge of “common assault” should be more appropriately charged as “assault occasioning actual bodily harm” under section 47 of the Offences against the Person Act 1861 (on which charge the defence of reasonable punishment is not available) unless the injury amounted to no more than temporary reddening of the skin and the injury is transient and trifling.

**Physical Chastisement and Cultural Competency**

There are a wide variety of cultural attitudes to parenting, discipline and the use of physical punishment of children. Some parents therefore may be unfamiliar or actively disagree with the legal and moral principles which forbid parents to hit their children. Cultural competency does not collude with oppressive practices that can be disguised as cultural issues. When working with families who consider physical punishment to be a necessary part of parenting, it is important to make clear the NSCP’s position on physical punishment and share alternative ways of supporting positive behaviour management.

**Behaviour Management and Discipline Strategies**

Other means of discipline are more effective and of much greater learning value to the child. Positive parenting with clear limit setting and guidance in a context of loving support; pro-social behaviour will be best achieved by clear modelling within the family.

We know that children and young people need:

* love, affection and warmth;
* talking, listening and positive praise;
* guidance and understanding;

and we also know that they can behave in negative ways from time to time and need:

* a safe and structured environment;
* limits and boundaries; and
* consistency and consequences.

There are some general positive discipline strategies which are alternatives to physically punishing a child or young person. These can include:

* ignoring behaviour that you do not want to see (unless of course there is a safety reason) so a child doesn’t get rewarded with your attention;
* having clear and consistent rules and boundaries, with consequences if they are broken which are stuck to!
* rewarding positive behaviour with your attention, praise, a hug and small treats; and
* being assertive and using statements such as “I feel really disappointed when you ….”.

Adults providing a good example to children is important. If they are exposed to violence, either directly or between adults, this sends a message that this behaviour is OK and they are more likely to be violent themselves.  It is important to support parents and carers to develop coping mechanisms to help them manage their temper, e.g. don’t lash out but walk away, deep breathe and count up to ten.  Adults may need support in giving themselves time to calm down and think about how else to tackle the negative behaviour that their child[ren] may be demonstrating.  If this happens, these adults should be signposted to seek advice and support from a GP or Health Visitor and/or a parenting programme.

**Parenting Programmes**

There are a range of parenting programmes that can help parents with guidance, support and practical solutions to dealing with behavioural issues and other parenting issues.

The [Strengthening Families, Strengthening Communities (SFSC)](http://www.raceequalityfoundation.org.uk/sfsc) parenting programme advocates parent-modelling and then, with younger children, moving through the following discipline strategies including giving clear instructions, positive attention for positive behaviour, ignoring negative behaviour, positive confrontation, family rule discussions, time out and incentive charts.

The [Incredible Years Parenting Programme](http://www.incredibleyears.com/), for parents of children from the age of 3 to 12 years, use limit setting and ignoring behaviours techniques, time out to calm down, and natural and logical consequences.

[Mellow Parenting](http://www.mellowparenting.org/) places an emphasis on attachment theory that suggests our earliest relationships provide a model for later relationship.  The approaches focus on spotting trouble, so being identify triggers and understanding behaviour in order to anticipate and avoid difficulties; changing your child’s behaviour through the role of attention in reinforcing behaviour e.g. praise, play rewards; stopping behaviour you don’t want, such as temper tantrums, by using withdrawal of attention, etc.

1. [Royal College of Paediatrics and Child Health Position Statement on corporal punishment](https://rcpch.adlibhosting.com/files/Corporal%20Punishment%20Position%20Statement%202009-11.pdf) [↑](#footnote-ref-1)
2. [UN Convention of the Rights of a Child (Article 19)](https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_summary-1.pdf?_ga=2.210341462.2109308162.1494082545-1288498888.1494082545) [↑](#footnote-ref-2)
3. [Offences against the Person, incorporating the Charging Standard | The Crown Prosecution Service (cps.gov.uk)](https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard) [↑](#footnote-ref-3)