
CHILDREN ARE UNBEATABLE! Alliance

BRIEFING NOTES



HITTING CHILDREN IS WRONG & THE LAW SHOULD SAY SO - NOW!

■ EQUAL PROTECTION FROM ASSAULT FOR CHILDREN IS A “MATTER OF PRIORITY”

UNITED NATIONS

The UN Committee on the Rights of the Child, monitoring compliance with the Convention on the Rights of the Child, has recommended equal protection for children to the UK three times – in 1995, 2002 and 2008.

The 2008 report on the UK, published on the 3 October, said: “The Committee is concerned at the failure of State party to explicitly prohibit all corporal punishment in the home and emphasises its view that the existence of any defence in cases of corporal punishment of children does not comply with the principles and provisions of the Convention, since it would suggest that some forms of corporal punishment are acceptable.”

The 2008 report went on to recommend that the UK should “prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences...”

In 2006, the UN Committee on the Rights of the Child reminded all signatories to the Convention on the Rights of the Child, including the UK, that equal protection for children is “an immediate and unqualified obligation”. The Committee continued: “...the Convention [on the Rights of the Child] requires the removal of any provisions (in statute or common – case – law) which allow some degree of violence against children (eg ‘reasonable’ or ‘moderate’ chastisement or correction), in their homes/families or in any other setting.”

The 2006 report of the United Nations Secretary-General’s Study on Violence against Children called on all countries to prohibit all physical punishment of children by 2009.

COUNCIL OF EUROPE

In 2005, the European Committee of Social Rights, monitoring conformity with the European Social Charter, found UK law in breach of human rights obligations. It concluded: “...since there is no prohibition in legislation of all corporal punishment in the home, the situation [in the UK] is not in conformity with Article 17 of the [Social] Charter.”

■ EQUAL PROTECTION FOR CHILDREN ACCELERATES ACROSS EUROPE

Nineteen countries in Europe – most recently Spain, Portugal and the Netherlands – have now acted to satisfy human rights obligations by giving children equal protection from assault:

1979	Sweden	1996	Italy (by Supreme Court)	2000	Germany	2006	Greece
1983	Finland	1997	Denmark	2003	Iceland	2007	Netherlands
1987	Norway	1998	Latvia	2004	Romania	2007	Portugal
1989	Austria	1999	Croatia	2004	Ukraine	2007	Spain
1994	Cyprus	2000	Bulgaria	2005	Hungary		

Of the 47 member states of the Council of Europe, more than half have now legislated for equal protection for children or are committed to doing so soon.

Of the 27 countries of the European Union, only five – one of which is the UK – fail to give children equal protection or have not made a commitment.

■ “NO ROOM FOR COMPROMISE” SAY UK CHILDREN’S COMMISSIONERS

In their January 2006 joint statement, the four UK Children’s Commissioners declared that “there is no room for compromise” on equal protection for children and called for urgent legislation.

In 2007, Sir Al Aynsley-Green, the Children’s Commissioner for England, said: “Children and young people should have the same right to protection under the law on common assault as that afforded to adults – there is no good reason why children are the only people in the UK who can still be lawfully hit.”

Other bodies that have called for equal protection for children include:

- The independent Commission on the Family and the Wellbeing of Children (2005).
- The National Assembly for Wales (2004).
- The UK parliamentary Joint Committee on Human Rights (2003).
- The House of Commons Health Select Committee (2003).

■ STRONG PROFESSIONAL CONSENSUS FOR EQUAL PROTECTION

More than 400 organisations are now part of the Children Are Unbeatable! Alliance which campaigns for the UK to satisfy human rights obligations by modernising the law on assault to give children the same protection that adults take for granted. It is the largest campaign coalition ever formed on a children’s issue.

These organisations include:

All major children’s charities - the NSPCC, the National Children’s Bureau, NCH, Save the Children and many others.

All major professional associations concerned with safeguarding children - the British Association of Social Workers, the Royal College of Paediatrics and Child Health, the Association of Directors of Children’s Services, the Community Practitioners’ and Health Visitors’ Association and many others.

A broad range of faith and church groups, trade unions, sure start projects, children’s centres and local safeguarding children boards.

■ PUBLIC CONSULTATION EVIDENCE SUPPORTS EQUAL PROTECTION

The overwhelming majority of respondents to the Government’s consultation on “reasonable punishment” (section 58 of the Children Act 2004) criticised the current law for being unjust and unsafe. More than 1,000 concerned parents, professionals and organisations submitted evidence to the consultation, conducted in July and August 2007, supporting the case for equal protection for children.

The Government’s consultation report, published in October 2007, said:

“Overview

“Respondents generally felt that section 58 of the Children Act 2004 had made little positive impact on children, families and those working with them. It was considered that section 58 has not improved legal protection for children in cases of alleged assault by their parents. Many respondents felt that the only way to protect children is to ban physical discipline outright.

“Respondents considered that there has been no change in practice as a result of section 58 by those working with children and families in considering incidents involving an alleged assault by a parent upon a child. Most commented that the legal position on the physical punishment of children is confusing for both parents and professionals and makes it difficult to make sound judgements of potential child abuse incidents.

“The general opinion of respondents was that changes to the law have not deterred parents from using unacceptable levels of physical punishment in bringing up their children. A number of respondents were concerned by the use of the phrase “unacceptable levels of physical punishment”; they believed that there is no acceptable level of physical punishment...”

Extract from “Section 58 of the Children Act 2004 Review (consultation): Analysis of responses to the consultation document”, DCSF 2007.

“Violence against children is a violation of their human rights, a disturbing reality of our societies. It can never be justified whether for disciplinary reasons or cultural tradition. No such thing as a ‘reasonable’ level of violence is acceptable. Legalized violence against children in one context risks tolerance of violence against children generally.”

LOUISE ARBOUR,
UNITED NATIONS HIGH
COMMISSIONER FOR
HUMAN RIGHTS

“The current law allowing ‘reasonable punishment’ is unjust and unsafe. The only credible way to clarify the law is to give children equal protection.”

DAME MARY MARSH
NSPCC DIRECTOR &
CHIEF EXECUTIVE

“How can we expect children to take human rights seriously and to help build a culture of human rights, while adults not only persist in slapping, spanking, smacking and beating them, but actually defend doing so as being ‘for their own good’? Smacking children is not just a lesson in bad behaviour: it is a potent demonstration of contempt for the human rights of smaller, weaker people.”

THOMAS HAMMARBERG,
COUNCIL OF EUROPE
COMMISSIONER FOR
HUMAN RIGHTS

“Our human rights obligations to respect the physical integrity and human dignity of children are clear. To fulfil those obligations properly, children must be given the protection of the law against assault which adults take for granted in a civilised society. And we should do it quickly, before the 21st century gets much older.”

RT HON LORD KINNOCK