

This document relates to the Children (Equal Protection from Assault) (Scotland) Bill (SP Bill 38) as introduced in the Scottish Parliament on 6 September 2018

# Children (Equal Protection From Assault) (Scotland) Bill

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## Financial Memorandum

### Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Children (Equal Protection from Assault) (Scotland) Bill, introduced in the Scottish Parliament on 6 September 2018.
2. The following other accompanying documents are published separately:
  - statements on legislative competence by the Presiding Officer and John Finnie MSP (SP Bill 38–LC);
  - Explanatory Notes (SP Bill 38–EN);
  - a Policy Memorandum (SP Bill 38–PM).
3. This Financial Memorandum has been prepared by the Non-Government Bills Unit on behalf of John Finnie MSP, the member who introduced the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### Background

4. The aim of the Children (Equal Protection from Assault) (Scotland) Bill is to help bring to an end the physical punishment of children by parents and others caring for or in charge of children.
5. The Bill gives children equal protection from assault by abolishing the defence of reasonable chastisement that parents (or others caring for or in charge of children) can use to justify the use of physical force to discipline a child. A person charged with assault of a child will therefore no longer have the defence (in either criminal or civil proceedings) that the use of force constituted “reasonable chastisement” or “justifiable assault”.

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6. A further objective of making this change to the law is to drive behaviour change in Scotland, which is currently out of step with most of Europe and many other parts of the world on this issue. It is expected that the Bill will prompt parents and others caring for or in charge of children who use physical punishment to join other parents in using other, less harmful, methods of parenting, and help to redefine what is acceptable in terms of the punishment of children.

7. Whilst the Bill seeks to drive behavioural change – by encouraging the end of physical punishment – it is not anticipated the Bill would incur significant costs to implement. Some initial costs would be required to publicise the change of the law and promote alternative forms of punishment but the resulting behavioural change is not anticipated to lead to a significant increase in expenditure.

## Costs on the Scottish administration

### Costs on the criminal justice system

8. The Bill does not create a new offence; rather, it removes the defence of reasonable chastisement for the assault of a child. Thus, once the Bill is in force, some prosecutions may proceed as a result of the Bill which may not have proceeded when the defence was available. The Bill may also lead to additional cases of lower level physical punishment being reported, and prosecuted, which are currently not reported due to the defence being available. Accordingly, the Bill can be expected to have some impact and costs on the criminal justice system.

### Impact of the existing defence

9. It is difficult to gauge the impact of the defence of ‘reasonable chastisement’ in Scotland to date as, while some information about the number of prosecutions for alleged assaults on children in Scotland is available, information about the number of times the defence of ‘reasonable chastisement’ has been used in cases of assault on a child in Scottish courts is not collated. There is some information, however, relating to the use of the defence of ‘reasonable punishment’ in England and Wales which might be translated to Scotland, although some of this information is now over ten years old. This information indicates what proportion of current cases are more likely (once the Bill is in force) to lead to a prosecution once the current defence is no longer available.

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10. A 2007 Department for Children, Schools and Families review highlighted a report by the Crown Prosecution Service (CPS) which identified 12 cases between January 2005 and February 2007 when the defence had been used and resulted in, or may have been a factor in, acquittal or discontinuance of the case.<sup>1</sup> Of these 12 cases, four were put forward by the defence for a charge of child cruelty despite the defence not being available in such cases.<sup>2</sup> In his 2010 report, Sir Roger Singleton<sup>3</sup> said that the CPS was aware of a further two cases where the defence of ‘reasonable punishment’ was used since 2007.<sup>4</sup> So it seems reasonable to say the defence was validly used roughly ten times in England and Wales over a five-year period.

11. Thus, whilst information for Scotland about the impact of the existing defence is not available, it is reasonable to assume that, based on the information available for the use of the defence in England and Wales, there are very few, if any, cases where the equivalent defence is relied on in prosecutions for an assault on a child in Scotland. It should be noted that, on a population basis, 10 cases over five years would suggest less than one case a year, on average, in Scotland.

12. The Department for Children, Schools and Families review stated that “with this [the availability of the ‘reasonable punishment’ defence] in mind, charging parents with common assault because they smacked their children, and prosecuting them, will rarely meet the necessary tests for

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<sup>1</sup> Department for Children, Schools and Families (2007). Review of Section 58 of the Children Act 2004. Available at:

<https://www.gov.uk/government/publications/review-of-section-58-of-the-childrens-act-2004>.

<sup>2</sup> Section 58 of the Children Act 2004 limited the use of the defence of reasonable chastisement so that it could no longer be used when people are charged with offences against a child such as causing actual bodily harm or cruelty to a child.

<sup>3</sup> Sir Roger Singleton was chief executive of Barnardo’s for 21 years and is currently chair of the Independent Safeguarding Authority.

<sup>4</sup> Singleton, Sir Roger (2010). Physical punishment: improving consistency and protection. Available at:

[www.education.gov.uk/publications/eOrderingDownload/DCSF-00282-2010.pdf](http://www.education.gov.uk/publications/eOrderingDownload/DCSF-00282-2010.pdf).

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prosecution: the evidential test (a conviction will be unlikely because of the availability of the defence) and the public interest test”.<sup>5</sup> Whilst the Bill would remove the equivalent defence in Scotland (the ‘reasonable chastisement’ defence), the public interest test would still be a consideration when taking a decision about charging and prosecuting parents (or carers).

## Public interest test

13. The Crown Office and Procurator Fiscal Service (COPFS) *Prosecution Code* sets out the criteria for decision making that prosecutors should use, and the range of options available, when dealing with reports of crime.<sup>6</sup> The criteria include public interest considerations, which include factors such as the gravity of the offence, the impact on the victim, motive and mitigating circumstances. COPFS would take into account whether it would be in the public interest to prosecute a parent for the physical punishment of a child or whether an alternative to prosecution might be more appropriate.

14. The Bill does not make any changes to the *Prosecution Code* and COPFS would still need to apply public interest considerations, including whether it would be in the public interest to prosecute a parent for the physical punishment of a child, when dealing with reports of crime. Thus, it cannot be assumed that the removal of the ‘reasonable chastisement’ defence would lead to an increase in the number of prosecutions for alleged assaults on a child.

15. In his consultation document for the Bill, the member in charge stated his expectation that legislation would not lead to an increase in prosecutions and the criminalisation of parents. Rather, he argued, it has “been done with the purpose of altering behaviour, and challenging the

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<sup>5</sup> Department for Children, Schools and Families (2007). Review of Section 58 of the Children Act 2004, paragraph 42. Available at: <https://www.gov.uk/government/publications/review-of-section-58-of-the-childrens-act-2004>.

<sup>6</sup> Crown Office and Procurator Fiscal Service (2001). *Prosecution Code*. Available at: [http://www.copfs.gov.uk/images/Documents/Prosecution\\_Policy\\_Guidance/Prosecution20Code20\\_Final20180412\\_\\_1.pdf](http://www.copfs.gov.uk/images/Documents/Prosecution_Policy_Guidance/Prosecution20Code20_Final20180412__1.pdf).

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acceptance of certain behaviours in society, rather than being based upon a desire to make an example of parents using physical punishment”.<sup>7</sup>

## Legislating to end physical punishment in other countries

16. Whilst many other countries have legislated to end the physical punishment of children, there are a limited number that make obvious comparators for Scotland. Some analysis has been done in New Zealand, a country of similar size to Scotland and with a comparable legal system, which allows some tentative conclusions to be drawn.

17. In New Zealand, a two year review of police activity since the legislation was enacted found an increase in the number of cases of ‘smacking’ or ‘minor acts of physical discipline’ reported to police but a negligible increase in the number of prosecutions.<sup>8</sup> A pre-enactment review, covering the three month period leading up to enactment of the legislation, found three cases of ‘smacking’ had been reported.<sup>9</sup> Over the two year period following enactment, the number of ‘smacking’ cases reported to police increased to 36 although only one case resulted in a

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<sup>7</sup> Consultation by John Finnie MSP, Scottish Green Party member for the Highlands and Islands (2017). Children (Equal Protection from Assault) (Scotland) Bill. Available at: [http://www.parliament.scot/S5MembersBills/John\\_Finnie\\_Final\\_Consultation\\_Document\\_pdf.pdf](http://www.parliament.scot/S5MembersBills/John_Finnie_Final_Consultation_Document_pdf.pdf) (386KB pdf).

<sup>8</sup> New Zealand Police (2009). Final results of 2 year review of police activity since enactment of the Crimes (Substituted Section 59) Amendment Act 2007. Available at: <http://www.police.govt.nz/about-us/publication/crimes-substituted-section-59-amendment-act-2007>.

<sup>9</sup> The three month pre-enactment period found that 10 minor acts of physical discipline were reported to police. The review paper does not define what is meant by minor acts of physical discipline.

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prosecution and this was subsequently withdrawn with leave.<sup>10</sup> This equates to an increase of six reports of ‘smacking’ to the police per year.<sup>11</sup>

18. Evidence from Sweden, the first country to end the physical punishment of children in 1979, shows that the proportion of reported assaults that are prosecuted has not increased.<sup>12</sup>

19. Thus, the experiences in Sweden and New Zealand suggest that, whilst there might be an increase in the number of reports to police following legislation, there will not be a marked increase in the number of prosecutions or convictions.

20. The experience of countries which have ended the physical punishment of children also suggests the police and social services do not interpret it as an opportunity to change their approach to dealing with reports of assault on children. A further review of the New Zealand ban found that “one of the consistent messages from police officers and social workers ... was that the change in the law did not alter the way they

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<sup>10</sup> The two year review was broken into five shorter review periods. The number of cases by review period were: review period 1 (June – Sept 2007 (three months)) – 3 cases; review period 2 (Sept 2007 – April 2008 (seven months)) – 13 cases; review period 3 (April – Oct 2008 (six months)) – 9 cases; review period 4 (Oct 2008 – April 2009 (six months)) – 8 cases; review period 5 (April – June 2009 (two months)) – 3 cases. Over the same period, reports of minor acts of physical discipline also increased to 179 reports (broken down into 12; 69; 49; 39; and 10 over the five review periods).

<sup>11</sup> The figures show an 18 fold increase in the number of reports of a minor act of physical discipline.

<sup>12</sup> Government Offices of Sweden and Save the Children Sweden (2009). Never Violence – Thirty Years on from Sweden’s Abolition of Corporal Punishment. Available at: <http://www.government.se/information-material/2009/09/never-violence---thirty-years-on-from-swedens-abolition-of-corporal-punishment/>.

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thought about or responded to reports of concerns about child safety and wellbeing".<sup>13</sup>

## Conclusion

21. The evidence from countries which have ended the physical punishment of children suggests there will be a small increase in the number of reports to the police of assaults on children and a negligible increase in prosecutions. Over the two-year period immediately after legislation to prohibit physical punishment in New Zealand, the number of reports to police increased by six each year and resulted in one prosecution. On a population basis, this would suggest an increase of seven reports to police and less than two prosecutions per year in Scotland.

## Crown office and procurator fiscal service and Scottish courts and tribunal service

22. The small increase in reports to the police may result in a small increase of reports made by the police to COPFS. There may, therefore, be some additional costs for COPFS to review these reports before the decision is taken whether or not to prosecute. As this would likely equate to a small number of additional cases, it is anticipated that any additional costs could be met from existing resources.

23. In cases where COPFS decides to prosecute, the cost of each prosecution reaching court can be calculated as the Scottish Government publication, *Costs of the Criminal Justice System in Scotland 2015-16*, sets out the average cost for a case to be considered in a court in Scotland.<sup>14</sup>

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<sup>13</sup> Broad, H, et al (2009). Review of New Zealand Police and Child, Youth and Family Policies and Procedures relating to the Crimes (Substituted Section 59) Amendment Act 2007. Available at:

<https://yesvote.org.nz/files/2009/12/s59-report-to-prime-minister.pdf>.

<sup>14</sup> Scottish Government (2016). Costs of the Criminal Justice System in Scotland 2015-16. Available at:

[http://www.gov.scot/Topics/Statistics/Browse/Crime-](http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot)

[Justice/Publications/costcrimjustscot](http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot). The costs include figures for the Scottish Prison Service, COPFS, Criminal Justice Social Work, Police Scotland, Scottish Legal Aid Board, Scottish Courts and Tribunal Service,

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Assault cases involving the physical punishment of a child are likely to be tried summarily in the Sheriff or Justice of the Peace court. The average costs per procedure for the prosecution, for both the Sheriff or Justice of the Peace court, are £421. For a case heard in the Justice of the Peace court, the average court costs are £225 per procedure. For a summary case tried in the Sheriff Court, the average court costs are £441 per procedure.

24. There may be some minimal one-off costs, in relation to training and updating guidance, which can be absorbed by current budgets.

### Scottish children's reporter administration

25. The Scottish Children's Reporter Administration (SCRA) considers whether a child or young person needs to be referred to the Children's Hearing system.<sup>15</sup> This decision is based on two factors: first, there need to be 'grounds', or reasons, for the referral (the grounds for a child to be referred are set out in legislation) and, second, the Reporter needs to be satisfied that a compulsory supervision order is required. If the case is referred, the Children's Hearing decides whether such an order is made.

26. As set out earlier, evidence from countries which have ended the physical punishment of children suggests that there would be a small increase in the number of cases of physical punishment being reported. It is possible, therefore, that the number of referrals to the SCRA for further investigation may increase. The evidence also suggests, however, that the police and children's welfare professionals will not change how they approach and handle cases which have been reported. Accordingly, it is not anticipated the number of cases referred to a Children's Hearing (and hence the number of compulsory supervision orders made) would increase significantly and that any costs associated with an increase in the number of reports could be absorbed by existing resources.

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judiciary, Criminal Injuries Compensation and numerous other services. These costs do not include any figures for social work involvement.

<sup>15</sup> Scottish Children's Reporter Administration. Available at: <http://www.scra.gov.uk/>.

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## Promoting awareness and understanding of the Bill

27. Promoting awareness and understanding of the Bill would ensure that people across Scotland are made aware of the new legal position and may be a good opportunity to reinforce messages about alternative, positive approaches to dealing with children's challenging behaviour. Section 2 of the Bill places a duty on Ministers to promote awareness and understanding.

28. It would be for the Scottish Government to decide the terms of an awareness-raising campaign but the member in charge of the Bill, John Finnie MSP, considers that a national campaign, running for a period of approximately six months (both before and after the law change comes into effect) is appropriate as a minimum.

29. The Scottish Government publishes information relating to how much it spends on marketing (or advertising) campaigns. The most recent available figures are for 2016-17.<sup>16</sup> There were five campaigns which cost over £300k, with the most expensive campaign being 'Detect cancer early' which cost £450k and the second most expensive being 'Read Write Count' which cost £370k. Whilst it is difficult to compare the figures for each campaign, as there is limited information about what each involved, the flu campaign is thought to be a suitable comparator as it was a national campaign, which operated for a few months and promoted a single and simple message. The 2016-17 Scottish Government flu campaign cost £303k. An indicative figure of £300k has, therefore, been included in the cost estimate.

30. In the letter from the Minister for Childcare and Early Years to the member in charge of the Bill dated 11 July 2018 (see below), the Scottish Government estimates that a full marketing campaign would likely cost between £200,000 and £475,000. However, the Government does not consider such a campaign necessary and would prefer to raise awareness of the Bill by providing content on the Parent Club<sup>17</sup> website, sending information to key stakeholders (and publishing it on the Government's website), and using other existing channels to provide information to

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<sup>16</sup> Scottish Government (2017). Scottish Government Marketing Spend 2016-17. Available at: <https://beta.gov.scot/publications/marketing-spend-2016-2017/>.

<sup>17</sup> The Parent Club website can be seen at: <https://www.parentclub.scot>.

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parents. It estimates the cost of this alternative approach would be £20,000.

31. It is important to note that, as the Scottish Government sets aside a budget for marketing campaigns<sup>18</sup>, the Scottish Ministers could fulfil their duty to promote awareness and understanding within the existing budget – either via a full marketing campaign, or via the lower-profile approach outlined by the Minister. Additional costs would only be incurred if the overall budget for marketing campaigns was increased as a result of the Bill.

### Impact on national policies

32. Getting it right for every child (GIRFEC) is the Scottish Government's national approach to improving outcomes and supporting the wellbeing of children and young people, with an emphasis on prevention and early intervention to ensure the best outcomes for Scotland's children and young people. The Scottish Government would need to ensure the GIRFEC approach, and those policies which sit under its 'umbrella', reflect the new legal position.

33. It is not expected that this work would be onerous and it is anticipated it would be absorbed as part of the on-going policy development activities of the GIRFEC team in the Scottish Government.

### Guidance for local authorities

34. There may also be some costs involved with providing guidance to Police Scotland, local authorities, health boards and other public services relating to the implementation of the Bill.

35. Again, it is not expected that this work would be onerous and it is expected that any associated costs could be absorbed within existing budgets.

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<sup>18</sup> In 2016-17, total Scottish Government expenditure on marketing was around £4.6m. Source: <https://beta.gov.scot/publications/marketing-spend-2016-2017/>.

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## Estimated costs provided by the Scottish Government

36. On 11 July 2018 the Minister for Childcare and Early Years, Maree Todd MSP, wrote to the member in charge of the Bill, John Finnie MSP, attaching a paper setting out estimated costs broken down by required implementation task, and a further paper provided by COPFS regarding prosecution costs.

37. The paper estimating implementation costs on a task basis includes the Scottish Government's intentions for providing information and raising awareness about the Bill, which have been included in this Financial Memorandum. No other estimated costs are provided (apart from those provided by COPFS relating to prosecutions – see below). The Scottish Government states that it is setting up an implementation group which will consider potential costs further.

38. The COPFS paper estimates the additional cost of prosecutions as between £18,000 and £74,000 per year.<sup>19</sup> These figures are arrived at on the basis of the following methodology—

- taking the number of cases of assault committed against children by persons who have parental rights or responsibilities derived from charge or care of the child which were reported to COPFS over a three-month sample period;
- multiplying by four to calculate the current annual number of cases reported to COPFS; and
- estimating the additional cost that would be incurred if that current number of cases were to increase by 5%, 10% or 20%.

39. No explanation is given by COPFS (or by the Scottish Government) as to why case numbers would increase by any of these percentages. The paper acknowledges that no hard data is available and says that actual increases will depend on societal attitudes to the new legislation and on Crown prosecution policy in relation to the new legislation.

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<sup>19</sup> Figures rounded to the nearest £1,000 from the COPFS paper.

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## Costs on local authorities

40. Costs would fall on local authority social work departments in respect of the involvement of staff in the criminal justice system or engagement with parents at community level.

## Investigating reports of assault on a child

41. As set out earlier, evidence from countries which have ended the physical punishment of children suggests that the number of cases of physical punishment being reported would increase. Social work departments, together with Police Scotland, would be involved in any investigations. It is expected the increase in reports of punishment would be small and would decrease over time, as attitudes to physical punishment would adapt and the incidences of physical punishment reduce.

42. It has been estimated that the cost of the response by local authorities to a domestic call out is approximately £225.<sup>20</sup> This would lead to an approximate cost of just over £1.5k, across all local authorities, if local authorities responded to seven additional reports per year. It is felt these costs could be accommodated within existing resources.

43. Whilst the demands on local authority budgets and the size of social work departments workloads is recognised, given the small size of the expected increase in reports, it is predicted the additional demands on social work departments could be absorbed in the current workload. As a result, it is not expected that any additional resources will be required.

## Community level support to parents

44. Local authorities also provide and co-ordinate a range of parenting support through courses and resources. The supporting literature would need to be updated to reflect the impact of the legislation but it is expected

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<sup>20</sup> New Economy website, Unit Cost Database. Available at: <http://www.neweconomymanchester.com/our-work/research-evaluation-cost-benefit-analysis/cost-benefit-analysis/unit-cost-database>. This figure is based on the cost of a local authority call out to an incident of domestic violence.

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this could be done within the existing resources and would have no additional costs.

45. Although the Bill does not require the Scottish Government to extend the range of parenting support (either provided by local authority or health board staff), evidence from countries which have prohibited the physical punishment of children suggests it is central to driving the wider cultural change in attitudes away from physical punishment and towards other, more positive parenting techniques.

### Staff training

46. It is recognised that training would need to be provided to ensure all relevant staff are aware of the implications of this legislation. It is expected this could be provided within existing budgets.

## Costs on other bodies, individuals and businesses

### Police Scotland

47. The evidence from countries which have ended the physical punishment of children suggests that there will be a small increase in the number of reports of assaults on children but that the police are unlikely to change their approach to dealing with such reports. The New Zealand review found an increase of six reports to the police per year; on a population basis, this would suggest an increase of seven reports to the police per year in Scotland.

48. This is the position envisaged by the Scottish Police Federation (SPF). In its response to the consultation on the bill proposal, it stated it did "not believe that removing the statutory defence would result in a significant increase in the prosecution of parents and carers".<sup>21</sup> The SPF also expected "the Bill would not change the police response or resources deployed to investigate any report of assault on a child therefore this [Bill] should be cost neutral".

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<sup>21</sup> Scottish Police Federation. Written submission to John Finnie's consultation on a Children (Equal Protection from Assault) (Scotland) Bill. Available at: <https://johnfinniemsp.files.wordpress.com/2017/05/response-0389-publication.pdf>.

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49. It has been estimated the cost of a police response to a domestic call out is approximately £475.<sup>22</sup> This would lead to an approximate cost of just under £3.5k if the police responded to seven additional reports per year. It is felt these can be accommodated within existing resources.

## Health boards

50. In addition to the requirement to raise public awareness about the change to the law, it is vital that messages of alternative, positive parenting techniques are delivered by health professionals working with parents and families at community level. The universal health visiting pathway in Scotland, which presents a core home visiting programme to be offered to all families by midwives and health visitors from pre-birth to pre-school, will be one of the key ways this support can be delivered to families.

51. In a joint report published by the Swedish Government and Save the Children Sweden, reviewing the impact of the ban on corporal punishment in Sweden in 1979, it was argued that—

“The shift in attitude among Swedish parents away from violence stems from a mixture of legislation and public information campaigns. ... The major achievements of Sweden’s efforts came when parents stopped seeing smacking as a method of child-rearing and discovered alternative ways to solve conflicts with their children. Increased supports to parents and improved conditions for families have also likely played a role. ... providing support and backup to the most vulnerable parents is an important government task.”<sup>23</sup>

52. On-going, community level support is the most effective way to change the view of those parents who still believe it is acceptable to physically punish their children. In particular, there is a key role for

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<sup>22</sup> New Economy website, Unit Cost Database. Available at: <http://www.neweconomymanchester.com/our-work/research-evaluation-cost-benefit-analysis/cost-benefit-analysis/unit-cost-database>. This figure is based on the cost of a police call out to an incident of domestic violence.

<sup>23</sup> Government Offices of Sweden and Save the Children Sweden (2009). Never Violence – Thirty Years on from Sweden’s Abolition of Corporal Punishment. Available at: <http://www.government.se/information-material/2009/09/never-violence---thirty-years-on-from-swedens-abolition-of-corporal-punishment/>.

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government agencies to provide support and resources for the most vulnerable parents to better equip them to deal with bad behaviour. The Scottish Association of Social Work (SASW) highlighted this in its response to the consultation on the bill proposal, stating—

“It [an awareness-raising campaign] would also provide families with accurate and up to date information about the parenting choices they make. It is important that parents are not criminalised and resources need to be put in place for families to prevent this from happening. Extra support – both emotional and financial – needs to be provided for those families who have children with learning disabilities and complex needs as this behaviour can, at times, be particularly challenging. There are resource issues with regards to the people responsible for assessing circumstances and supporting parents (e.g. social workers, health workers) – the ones who will play the most significant part in supporting families through this change.”<sup>24</sup>

53. There is a wealth of different ways health professionals provide parenting support at community level. Whilst most – if not all – support packages and resources for parents will already discourage the use of physical punishment, these will need to be updated to reflect the removal of the ‘reasonable chastisement’ defence. It is expected this would be done as part of health professionals’ on-going review of these training and support resources. It is expected these support packages and resources will already contain the most up-to-date advice in terms of the positive approach to responding to challenging behaviour.

### Scottish legal aid board

54. As already stated, the evidence from countries which have ended the physical punishment of children is that there is an increase in the number of reports of assault but no (or very limited) increase in the number of prosecutions.

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<sup>24</sup> Scottish Association of Social Work. Written submission to John Finnie’s consultation on a Children (Equal Protection from Assault) (Scotland) Bill, response to Q1. Available at: <https://johnfinniemsp.files.wordpress.com/2017/05/response-0575-publication.pdf>.

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55. The costs have, however, been provided to illustrate how much a prosecution for assault of a child in a Sheriff or Justice of the Peace court would cost. For a case heard in the Justice of the Peace court, the average legal assistance costs are £326 per procedure. For a summary case tried in the Sheriff Court, the average legal assistance costs are £590 per procedure.

## Other bodies, individuals and businesses

56. It is not anticipated that any costs would fall on any other bodies, individuals and businesses.

## Summary of costs

57. The table below summarises the anticipated costs associated with the Bill. Most on-going costs relate to costs per prosecution. As noted above, the number of additional prosecutions is anticipated to be minimal.

<b>Table one: summary of total costs</b>			
<b>Organisation</b>	<b>One-off, initial costs</b>	<b>On-going, recurring costs Per call out</b>	<b>On-going, recurring costs Per prosecution</b>
<b>COPFS</b>	Minimal <sup>^</sup>	£0	£421
<b>SCTS</b>	£0	£0	£225 or £441
<b>SCRA</b>	£0	£0	£0
<b>Scottish Government</b>	£20,000 - £300,000*	£0	£0
<b>Local authorities</b>	Minimal <sup>^</sup>	£225	£0
<b>Police Scotland</b>	Minimal <sup>^</sup>	£475	£0
<b>SLAB</b>	£0	£0	£326 or £590
<b>Total</b>	<b>£20,000 - £300,000</b>	<b>£700</b>	<b>£972 or £1,452</b>

<sup>^</sup> Please note there may be minimal costs for training and updating guidance which it is expected can be absorbed by current budgets.

\* Please note this it is expected that this cost can be met from the existing Scottish Government budget for marketing.

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## Savings

58. One of the main concerns of those opposed to the prohibition of the physical punishment of children is that prohibition may, in the long term, result in an increase in youth crime. Evidence from countries which have banned the physical punishment of children, however, suggests this is not the case. In Sweden—

“the available figures show a decrease in youth crime since the mid-1990s, due primarily to youngsters committing fewer theft and criminal damage offences. Participation in violent crime has remained relatively constant. There is no indication from research that criminality is rising among young people.”<sup>25</sup>

59. In its response to the consultation on the bill proposal, the SASW stated that—

“In the long-term, SASW is confident that the removal of the legal defence, alongside a public awareness-raising campaign and investment in early intervention and systemic family support, will ease the burden on public services. Indeed, it should eventually lead to a reduction in cost, given there will be less demand for expensive crisis management and intervention. Education and supporting parents will be more financially viable than criminalising and prosecuting parents, so surely must account for a saving in the long term.”<sup>26</sup>

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<sup>25</sup> Government Offices of Sweden and Save the Children Sweden (2009). Never Violence – Thirty Years on from Sweden’s Abolition of Corporal Punishment. Available at: <http://www.government.se/information-material/2009/09/never-violence---thirty-years-on-from-swedens-abolition-of-corporal-punishment/>.

<sup>26</sup> Scottish Association of Social Work. Written submission to John Finnie’s consultation on a Children (Equal Protection from Assault) (Scotland) Bill, response to Q5. Available at: <https://johnfinniemsp.files.wordpress.com/2017/05/response-0575-publication.pdf>.



This document relates to the Children (Equal Protection from Assault) (Scotland) Bill (SP Bill 38) as introduced in the Scottish Parliament on 6 September 2018

# Children (Equal Protection From Assault) (Scotland) Bill

## Financial Memorandum

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