

Inverclyde Multiagency Guidance Children Equal Protecton from Assault



With thanks to East Ayrshire and North and South Lanarkshire

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**Introduction and background**

On the 7 November 2020 the [Children (Equal Protection from Assault) (Scotland) Act 2019](https://www.legislation.gov.uk/asp/2019/16/enacted) came into force

in Scotland. This law now removes the defence of ‘reasonable chastisement’, which a parent or carer

could previously use to justify the use of physical force to discipline a child.

The change in law means that children will have the same—equal—protection from assault as adults. It

does not introduce a new criminal offence as Scotland’s current laws on assault will now apply to children

as well.

The change in law aims to bring an end to the physical punishment of children by parents and carers. It also aims to drive behaviour change in Scotland, prompting parents and others caring for or in charge of children to use less harmful methods of parenting. The objective is not to see parents and carers progress disproportionately through the Justice system, but to encourage parents to seek alternative methods of discipline and to seek support when parenting becomes challenging and difficult.

Within Inverclyde we want to create a societal cultural change for children and their families and the evidence from other countries who have already implemented the change demonstrates that it is unlikely in Scotland we will see an increased number of criminal prosecutions of parents or carers.

We may, however, see a short term increase in Request For Assistance from services to Children & Families social work and referrals to Police Scotland, either from universal service practitioners or from members of the public who witness an incident or hear about an incident occurring.

In these instances the first point of contact may take place with the Health Visitor, Education Professional, via community links or to a Social Work Practitioner. It is vital that a proportionate and balanced approach is taken with such information and professional judgement, utilising our existing assessment frameworks for children, is applied. We have to continue to promote our position of early help and support whilst judging the impact of such an assault on the child. Request for Assistance discussions can take place with Children & Families Social Work where a multi-agency meeting may be convened as appropriate. Child Protection must always be considered and applied.

The Scottish Government, Local Authorities, 3rd Sector and voluntary have a responsibility to let children and families know about the law change. This means that when we work alongside families we can let them know what the evidence about inappropriate physical discipline is, what the law says and why alternative methods of discipline are more effective. It also means that we can work alongside families before an incident occurs to help them understand what their rights are and how they can access early help and support. Information for children, young people and families is available here:

  

**Support for parents and carers**

Sometimes, parents or carers may want some additional help and support. Those working alongside

children and families may be able to provide advice, information and support as part of their response to

an act of physical punishment. This could be through the provision of information and advice, parenting

programmes and/or other individual and family support as appropriate in each situation.

The [Family Support Directory | Parent Club](https://www.parentclub.scot/family-support-directory?age=2) is a searchable directory of support, organisations and benefits

available to parents and carers in Scotland to support children regardless of their age and situation. The

ParentClub website includes hints and tips on [managing behaviour](https://www.parentclub.scot/topics/behaviour/behaviour-tips?age=3) [Tantrums and strops | Parent Club](https://www.parentclub.scot/topics/behaviour/tantrums-strops?age=3) and

[Coping with parenting | Parent Club](https://www.parentclub.scot/topics/behaviour/coping-with-parenting?age=3)

[Scotland's National Children's Charity | Children 1st](https://www.children1st.org.uk/) provides practical and emotional support for families in Scotland. Parents and carers can contact [Children 1st Parentline - Parenting Help, Advice & Support | Children 1st](https://www.children1st.org.uk/help-for-families/parentline-scotland/) or call on 08000 28 22 23, and web chat is also available. These are free services available every day

of the year.

Parents may also find the following useful

[Equal Protection - changes to the law in Scotland | Children 1st](https://www.children1st.org.uk/who-we-are/speaking-up-for-scotlands-children/equal-protection-information-for-families-about-changes-to-the-law/)

Families tell us that the best support that we can offer is to help support building strong and trusting relationships. This gives parents and carers the space to reflect on themselves as parents, understand their children’s needs and develop safe and nurturing relationships with their children, even at points of stress and times of feeling overwhelmed.

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**Guidance for Inverclyde Practitioners**

It may be possible that children will tell their Health Visitor, Teacher, Social Worker, Support Worker

etc. that a parent, guardian, carer and / or sibling has used physical punishment as a form of discipline.

E.g. “smacked, slapped, skelped”. Parents or carers may also disclose or advise the aforementioned

group of practitioners that an incident has occurred that they have regretted or struggled with.

Practitioners may also witness an event where a child will be assaulted using a force ordinarily

associated and framed as ‘reasonable’ but is now no longer acceptable

If this happens, it is important to be clear that **the law change relating to Equal Protection does not**

**affect current national or local child protection guidance.** Local agency child protection procedures in

the first instance.

Getting Right For Every Child information is available for practitioners from the Scottish Government

website can be accessed here: [Getting it right for every child (GIRFEC) - gov.scot (www.gov.scot)](https://www.gov.scot/policies/girfec/)

In assessing the concerns about the child, the 5 GIRFEC questions every professional must be asked in

formulating the proportionate response, whether the child is in need of care and / or protection.

- What is getting in the way of this child or young person's wellbeing?

- Do I have all the information I need to help this child or young person?

- What can I do now to help this child or young person?

- What can my agency do to help this child or young person?

- What additional help, if any, may be needed from others?

Where there is a concern about risk of significant harm to a child, Social Work and Police Scotland must

be informed immediately and an **Interagency Referral Discussion (IRD)** will take place between Social Work, Health, Police and Education to analyse the immediate risk to the child and consider the next steps in Child Protection planning, including the need for further Investigation.

It is crucial that practitioners apply good professional curiosity and judgement to any scenario where

inappropriate physical discipline is suspected. Direct face-to-face contact must take place with the child

and family as part of any initial assessment of vulnerability or risk.

It is imperative that when practitioners apply good professional judgement they determine the best

course of action for the child and their family, applying the good GIRFEC practice standards of early help

and support.



**When a decision is made to make a Notification of Child Protection Concern (NOCPC) or a Notification of Concern (NOC) in some cases and / or through direct contact Police Scotland via 101:**

1. The practitioner has concluded that the incident and /or accumulation of concern has placed an immediate risk to the safety of the child. The child will require immediate support and intervention from Police Scotland and Social Work to ensure their safety and wellbeing is safeguarded.
2. If the incident and /or accumulation of concerns is assessed as having a significant impact on the child’s wellbeing an Interagency Referral Discussion (IRD) will be convened within agreed timescales.
3. Police Scotland have been supplied with a set of guidance by the Crown Office and Procurator Fiscal Service (COPFS) following the Lord Advocate guidelines being concluded. Once a child has been reported to Police Scotland there is no scope for officers to apply discretionary measures.

**Note:** Police Scotland cannot exercise any Police discretion and all reported assaults on children

will be progressed with a number of options available:

- Recorded Police Warning;

- Referral to Public Protection Unit for further investigation;

- Report to COPFS for consideration of a criminal prosecution

**When a decision is made not to make a Notification of Child Protection Concern or contact Police Scotland via 101:**

1. Practitioners and family support workers must be satisfied that the following criteria has not been met when assessing and reviewing the incident or accumulation of concerns

- There is no immediate risk to the safety of the child and;

- There is no need to make a notification of child protection concern (based on

professional judgement and understanding of the National Child Protection Guidance

and single agency procedures or guidance).

1. If the practitioner is satisfied that there is no need to involve Children & Families / Children & Justice Social Work or Police Scotland, then the following actions must be taken:

- Family / Community practitioners must notify the Named Person service in Health

and/or Education and explore with the family the incident that has been described or

witnessed (for example, a parent disclosing that they momentarily lost control and

smacked a child on the bottom following an escalation of pressure), giving space to

hear what happened and reflect on it. If the child has a Social Work lead professional

they must be notified on the next working day. Children’s practitioners must be intentional

in the response and assess;

- Precisely what happened;

- The impact on the child;

- The unique circumstances of the child and the family; and

- The response of the parent following the incident.

1. This can be a very effective time for helping families reflect on what caused the incident and learn new ways of responding in future.
2. **The primary focus should not be on making judgements about the family, but offering help and support and building strong relationships.** The incident may be indicative of a requirement for additional help or support and this should be acknowledged and explored with the family. Some families may need support with factors that are causing a build- up of stress or are impacting on their coping strategies. Practitioners may need to provide some information to help parents or carers to understand their children’s behaviour. They may also want to offer practical help to build on families’ strengths and capacity to adopt different strategies and respond in a different way.
3. **The Chronology** - The incident must be carefully recorded and noted within the child’s plan / chronology as appropriate.
4. **The Childs Plan** - A single agency assessment should be undertaken at the earliest opportunity to ensure the Child’s Plan is reflective of the current area of vulnerability and need. Consideration may be given to making a formal Request for Assistance for additional family supports, including the need for further Social Work assessment where they identified issue cannot be addressed.
5. Careful consideration must be given to whether the incident is a one-off occurrence or part of a broader set of vulnerabilities /risks that should be discussed with the family and reviewed across services involved at the time.
6. Practitioners must be constantly vigilant to the child’s needs, the family and environmental factors impacting on the child and the capacity of parents or carers to meet those needs. Although an individual incident may not amount to a child protection concern, as with all incidents, practitioners should be aware of a number of accumulative small themes adding up cumulatively to a wellbeing or a child protection concern.

**Helpful prompt questions to explore for practitioners following an incident being witnessed or when a parent or child make a disclosure:**

Is the child at risk of significant harm?

Practitioners must always refer to the child protection procedures in establishing significant harm.

**Yes** – Inform Social Work via a Notification of Child Protection Concern. IRD will be initiated.

**No** – Is the incident part of a pattern of concerning behaviour or an accumulation of risks?

**Yes** – Discuss with line manager / Request for Assistance discussion with Children & Families / Children & Justice Social Work before considering if there is a formal role required for Social Work via a multi-agency planning meeting.

**No** – Record the incident and discuss outcome with services. NB: Practitioners must work in partnership with the family to address how they feel about the incident and seek the views and feelings of the child. Ensure that they understand the harmful impact of physical punishment and promote alternative, more appropriate and successful techniques. Explore with the family the underlying issues that led to the incident and what other support might be appropriate. Ensure the family has the number for Parent Line Scotland if they want to talk when their identified support is not available. **Remember to check in regularly to ensure there has been no reoccurrences and build an open, honest and reflective relationship**.