

# Family Education Trust

(Family and Youth Concern)

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## **MPs are urged to face the facts on parental smacking** *Evidence does not support a change in the law, says family group*

**Children Bill: House of Commons Report Stage and Third Reading, Tuesday 2 November**

As MPs prepare to consider the discipline of children by their parents in today's Children Bill debate, they should make sure that they do not lose sight of the facts in the heat of the debate, says the Family Education Trust.

There are few areas in contemporary parenting which arouse such strong emotions as smacking, and it is not always easy to see clearly through the misconceptions and myths which have grown up around it in recent years. In a new factsheet, *A Reasonable Approach to Discipline*, Family Education Trust attempts to take a calm and dispassionate approach to the issues involved.

The Trust notes that there is already legislation in place which protects children from unreasonable punishment and abusive treatment, and that the defence of reasonable chastisement has been employed in only eleven cases since November 2001, resulting in just five acquittals.

The Trust's director, Norman Wells, commented: 'To remove or limit the defence of reasonable chastisement would not provide children with any more protection than they have under the existing legislation. In fact, it would expose them to additional risk, because it would significantly lower the threshold for intervention in family life and inevitably cause unnecessary trauma to families where the children were at no risk of harm. It would also vastly increase the caseload of social workers and police officers which could, in turn, lead to insufficient attention being given to children suffering serious abuse.'

The factsheet places a question mark over the number of other European countries which have legislated against all parental smacking, and highlights the vast increase in reported cases of child abuse and child-on-child criminal assaults in Sweden since smacking was banned there in 1979. It also exposes the myth that the child maltreatment death rate in Sweden has fallen to almost nil as a result of anti-smacking legislation. According to Unicef figures, the child maltreatment death rate in Sweden differs little from that of the UK, and none of the four countries with the lowest rates of child abuse deaths has a ban on smacking.

Norman Wells observed: 'There is no evidence from elsewhere in Europe that the prohibition of parental smacking has reduced child abuse rates or resulted in a less violent society.'

According to the Trust, studies which purport to demonstrate uniform negative consequences for parental smacking invariably fail to differentiate between harsh and abusive treatment on the one hand and mild physical rebukes, accompanied by reason in the context of a warm and supportive parent-child relationship on the other. A meta-analysis comparing physical correction with alternative disciplinary tactics (including grounding, withdrawing privileges, stopping pocket money and sending the child to his/her room) found that normal smacking was more effective than other strategies overall, and resulted in lower levels of antisocial behaviour.

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Trustees: Arthur Cornell MEd F.Coll.P (Chairman); Betty, Lady Grantchester; Eric Hester BA (Vice Chairman)  
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Norman Wells commented: 'In the absence of empirical scientific research against the use of moderate physical correction by parents, there is every reason to refrain from passing laws which would not command widespread public support and for which there may be a high price to pay in terms of increased levels of child abuse and youth crime.'

'In an area where family privacy and parental responsibility are at stake and the consequences are so far-reaching, it is vital that public policy should be pursued and legislation enacted only on the basis of rigorous objective evidence and not on the basis of ideological arguments.'

## **Notes for editors**

MPs are due to be debating amendments relating to parental discipline at Report Stage and Third Reading of the Children Bill on Tuesday 2 November.

The current law in England and Wales permits parental smacking provided it is moderate and reasonable.

During the Bill's passage through the House of Lords, peers voted on 5 July by 250 votes to 75 against an amendment which would have made all parental smacking a criminal offence.

However, they supported by 226 votes to 91 an amendment moved by Lord Lester of Herne Hill which would limit the defence of reasonable chastisement to charges of common assault. When the government previously considered pursuing this option in a public consultation in 2000, it concluded that: 'Although it seems attractive to limit the defence to the lesser charge, the legal responses strongly suggest that restricting the availability of the reasonable chastisement defence to common assault could result in overcharging in order to avoid the defence.'

The Crown Prosecution Service (CPS) held that it would be 'wrong' to limit the defence to charges of common assault since there was 'an overlap between common assault and assault occasioning actual bodily harm. For example, a very minor bruise could, as a matter of law, be charged as actual bodily harm.' The CPS also stated that such a change in the law was 'unnecessary because whether the defence will succeed will be dependent on the circumstances, including the injuries inflicted'. The Association of Chief Police Officers and the Criminal Sub-Committee of the Council of HM Circuit Judges were among other legal authorities who feared that it would result in parents being charged with the more serious offence in order to remove the availability of the reasonable chastisement defence.

Concerns that limiting the defence of reasonable chastisement could lead to overcharging have been heightened by proposals to amend the charging standards used to guide prosecutors. During the House of Lords debate on 5 July, the Attorney-General, Lord Goldsmith, announced that the Director of Public Prosecutions intended to amend the CPS charging standards in such a way that 'even minor assaults by a parent on a child' would 'normally be charged as assault occasioning actual bodily harm', even where the level of injuries would usually lead to a charge of common assault. It was suggested that an 'assault' on a child by an adult would be regarded as a 'serious aggravating feature'.

The practical effect of Lord Lester's amendment is uncertain and there are genuine fears that it could lead to intervention in families where children are at no risk of harm.

The reasonable chastisement defence has been used on only eleven occasions in court cases in England and Wales between December 2001 and August 2004, and was employed successfully on just five occasions. Following a government review of cases, Children's Minister, Margaret Hodge, concluded that the defence was being treated in a proper manner by the courts.

## **For further information ring**

Norman Wells

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The Family Education Trust was founded in 1971 to carry out research into the causes and consequences of family breakdown, and to publicise the findings of such research. The Trust has always made the welfare of young people its special concern, and adopted the operating title of Family and Youth Concern to express this.

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