



EQUAL PROTECTION FROM ASSAULT MULTI-AGENCY GUIDANCE FOR PRACTITIONERS SUPPORTING CHILDREN AND FAMILIES

Date Completed:	February 2021
Date Review Due:	February 2022
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Document Control Sheet

Date of Change	Details	Page Number

INTRODUCTION & BACKGROUND

1. On the 7 November 2020 the [Children \(Equal Protection from Assault\) \(Scotland\) Act 2019](#) 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. It is the vision for Scotland that there is a fundamental change in how children are both respected and treated equally with adults. A person charged with assault of a child will therefore no longer be able to access this defence. This means that all forms of physical punishment of children by parents and carers will not be lawful in Scotland and it is hoped that parents will develop alternative, positive parenting strategies when disciplining their child.
2. 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.
3. 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.
4. 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.
5. We may, however, see a short term increase in Request For Assistance requests from Named Person 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.
6. In these instances the first point of contact may take place with the Health Visitor, Community Practitioner, Education professional or 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 Children & Families Social Work and encouragement should be made to convene a Team Around the Child review at the earliest opportunity.
7. 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.

8. With the current COVID-19 national crisis, families are facing uncertainties, challenges and hardship on an unprecedented scale. Placing additional pressures on them as parents that may impact on their capacity to make good decisions.
9. 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.

GUIDANCE FOR EAST AYRSHIRE PRACTITIONERS

10. 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 ('smacked', etc). Parents or carers may also disclose or advise the aforementioned group of community 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'.
11. 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**. National Guidance for Child Protection in Scotland was published in May 2014 and is currently being updated. It is [available here](#).
12. Our current Getting Right For Every Child practitioners guidance can be accessed here: <http://www.girfec-ayrshire.co.uk/>

As has always been the case, where there is a concern about risk of significant harm to a child, East Ayrshire 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.

13. Given the challenges of COVID-19 and the risk of some children becoming 'invisible' to services, 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 /risk.
14. 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.

<http://girfec-ayrshire.co.uk/practitioners/>

When a decision is made to make a Notification of Child Protection Concern or to contact Police Scotland via 101:

15. 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 Children & Families Social Work to ensure their safety and wellbeing is safeguarded.
16. 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 24 hours. Further guidance on East Ayrshire IRDs can be found within the Ayrshire and Arran Working Model for Interagency Referral Discussions (IRDs)

<https://www.east-ayrshire.gov.uk/Resources/PDF/C/CP-Ayrshire-and-Arran-Working-Model-for-Interagency-Referral-Discussions.pdf>

17. Police Scotland have been supplied with a strict 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.
18. **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:

19. 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:
 - I. There is no immediate risk to the safety of the child and
 - II. 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 the East Ayrshire Child Protection guidance).
20. If the practitioner is satisfied that there is no need to involve Children & Families 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.

21. This can be a very effective time for helping families reflect on what caused the incident and learn new ways of responding in future.
22. 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.
23. The incident must be carefully recorded and noted within the East Ayrshire integrated AYRshare chronology by the Named Person or Lead Professional for the child.
24. A Team Around the Child must be convened 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 make a formal Request for Assistance for additional family supports, including the need for further Social Work assessment.
25. Careful consideration must be given to whether the incident is a one-off occurrence or part of a broader set of vulnerabilities /risks that must be discussed with the family and reviewed within a Team Around the Child review.
26. As is our usual practice, 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?

Yes – Inform Police and Social Work immediately. In exceptional circumstances consideration might need to be given to calling 101 or 999 (should the child require the assistance of emergency services). IRD to be convened.

No – Is there a child protection concern?

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 vulnerabilities /risks?

Yes – Discuss with line manager and / or have a Request For Assistance discussion with Children & Families Social Work before considering if there is a formal role required for Social Work via a Request For Assistance. A Team Around the Child review must convened at the earliest opportunity.

No – Record the incident and discuss with Named Person services. Update AYRshare chronology. 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 Parentline if they want to talk when the family support worker is not available. Check in regularly to ensure there has been reoccurrences and build an open, honest and reflective relationship.