



CHILDREN (EQUAL PROTECTION FROM ASSAULT) (SCOTLAND) ACT 2019

INFORMATION FOR PARTNER AGENCIES

INTRODUCTION

The Children (Equal Protection from Assault) (Scotland) Act 2019 (EP Act) received Royal Assent on 7 November 2019 and will be implemented on 7 November 2020. The purpose of the legislation is to assist in ending the physical punishment of children by parents, carers or the person who has charge of them. It removes the statutory defence of 'justifiable assault' under Section 51 of the Criminal Justice (Scotland) Act 2003.

It is important to emphasise that the change in the law does not change well established local and national Child Protection procedures. Those procedures will continue to be instigated as and when required by our officers, in accordance with Police Scotland's policy. We recognise that this may be something that your staff and the families you work with may raise with you, both in the lead up to 07 November and afterwards. The change in the law only removes a statutory defence at court, it does not directly change criminal law in Scotland. The definition of an assault has not changed and will continue to be applied by officers across Scotland.

Where police officers dealing with a report that may meet the criteria for Equal Protection identify additional concerns about a child's welfare, they will continue to seek support and advice from trained colleagues in Public Protection. That support will ensure that we continue to identify any instances which require additional investigation or where there is a need to consider the needs of the child through an Inter-Agency Referral Discussion. This is no different from current practice.

We cannot predict whether there will be any rise in complaints made to the police or other agencies as a consequence of the change in the law. That is something that Police Scotland will carefully monitor. This will allow us to collectively ensure the correct level of response to each child and their family and to establish if there are any wider lessons to be learned about behaviour and how we as agencies respond to that need.

POLICE PROCEDURE

Officers will follow new procedures and give effect to new Lord Advocate's Guidelines. Officers will continue to record reports of assault as crimes consistent with the Scottish Crime Recording Standard.

Police Scotland's Equal Protection policy clearly sets out that the change in the law only relates to those instances which may previously have been characterised as 'physical chastisement' of a child by their parent or the person caring for them at that time. Equally, the policy makes clear officers and staff must

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take cognisance of all the circumstances present in each individual incident. Officers will make assessments using their wider training, along with specific guidance which has been developed to ensure they ask themselves pertinent questions to inform their decisions about the nature of each incident and how they should respond. The best interests of the child are a primary consideration in that assessment.

Police Scotland has produced a training package (E-learning) for EP which is currently being completed by officers and staff prior to the implementation date. The Equal Protection package instils the message that any form of physical assault on a child will no longer be acceptable and will direct officers to continue to investigate crime in a victim centred manner, with the primary objective being the welfare of the child. The training helps officers to think about the factors they may encounter at such incidents and how to respond proportionately and justifiably to all the circumstances they encounter. In-keeping with this approach, officers have also been encouraged to consider any wider support that may be required by the child, their parent(s) or the person with care of them at that time.

A concern form will be submitted by officers for all incidents of Equal Protection to ensure the appropriate holistic wellbeing assessment of the child is carried out by Divisional Concern Hub staff. The concern form will be triaged, researched, assessed and information shared where appropriate to do so and in line with current guidance.