

## **Section 58 Review: Responses to the consultation**

### **Free text responses**

#### **1 To what extent has section 58 improved legal protection for children in cases of alleged assault by their parents?**

None at all. It is clear that child abusers will continue to injure children regardless of whether there are extra laws or not. The previously existing laws protected children no less than section 58. (Individual)

I do not feel that section 58 has improved the legal position for children. Children who have been physically injured and there is evidence of a mark (bruising etc) have previously been dealt with under child protection procedures which included police and prosecution. If the parent was to hit another adult, this would be assault – why is the position different for children who are vulnerable and require greater protection than adults. (Local Authority)

As a parent I am disappointed this debate is still going on. There can be no excuse or 'reasonable' chastisement for hitting a child, whether it leaves a mark or not. I have never smacked, slapped or tapped my son as a punishment, only using alternative methods to discipline him. He is smaller and more vulnerable than me or his father and if we can't think of a more creative way of disciplining him then I think it says a lot about us as parents, rather like using a swear word to express ourselves rather than a better use of language; it's aggressive, un-necessary and lacks intelligence. There is never a good reason to use violence to get a message across. In fact the only message it does give is that violence is permissible. (Parent / Relative)

I currently train police officer and social workers in child protection procedures. Section 58 is discussed and I feel that the general consensus of opinion is that parents should be allowed to physically chastise their children if it is done in a controlled way. No implements can be used and the law even after this amendment is still very unclear. For a lay person for example what is a common assault? What is actual bodily harm, etc (Police/Legal Professional)

I do not believe this protecting children fully as parents may resort psychological means, which may not be seen, but could be far more damaging (Medical/Healthcare Professional)

I believe that those parents who are likely to carry out serious assaults on their children will neither be restrained nor encouraged by section 58. I believe that the effect of section 58 has not been to restrict assaults, but to move towards the creation of a climate in which it is difficult for parents to use physical punishment upon their children at all. I believe that section 58 is more about pushing certain values onto parents who do not want them - in particular the values of those who believe that all physical chastisement is wrong. I reject such values; physical discipline is valuable and not intrinsically

wrong, and attempts to criminalise it should be rejected. (Parent / Relative)

Children & Young People should have the same right to protection under the law on common assault as that afforded to adults. Why should children be hit – no good reason. Section 58 should be repealed with regard to providing parents with an automatic defence to acts of common assault against their children. Children are rightly protected from assault in school and other settings. Section 58 does not go far enough – it is time for the law to protect them from violence at home – they should feel safe and secure there. (Medical/Healthcare Professional)

It has made no difference since it does nothing to address the fundamental right of a child to be brought up without violence. It has left unchanged the principle that it is acceptable to hit a child in order to change their behaviour. This principle is not acceptable with regard to adults, so allowing it to continue unchallenged for children is a gross infringement of their fundamental rights under any convention of rights that you care to mention. Just this week there was a report in a national newspaper of a case in which a judge used the reasonable punishment defence to acquit a father of assault. (Parent / Relative)

Most people tend to go to extremes, where common sense should prevail. To hit a child under any circumstances is wrong. Assault being only a matter of degree and learnt by example. There are many groups like "Children are Unbeatable Alliance" who are experienced in all manner of child behaviour and willingly give love and good counsel to any parent, guardian who are trying to avoid hitting and wish to learn better and more civilised ways. (Individual)

Section 58 has caused confusion and the law is not well understood by parents or professionals. They only answer to this is an unequivocal rejection of the physical punishment of children and legislation to support this. (Charity/Voluntary organisation)

The term 'unreasonable punishment' is an unsatisfactory way of distinguishing how children, as opposed to adults, are given protection against assault under the legislation. The term 'reasonable' is imprecise and its interpretation, case by case, always opens to dispute. No good reason has been adduced for failing to provide children with the same protection from assault as adults. (Individual)

In our view section 58 has not improved the legal protection of children hit by adults. It still leaves opportunities for children to be physically hit, which can justify to a minority of parents an excuse to use violence against a child in priority over non violent discipline. It is against the law to hit an adult for doing wrong in the UK, why not a child? In our experience it is the most vulnerable children in dysfunctional families that are most at risk by this loophole. (Charity/Voluntary organisation)

It has outlawed unreasonable physical punishment but lacks clarity in what is

reasonable. I am delighted that a review of the wording is being undertaken as I wrote prior to the current law saying that any physical punishment is unreasonable because children should be afforded the same human rights as adults, especially as they are smaller, frailer and therefore more vulnerable than adults. (Parent / Relative)

Clarification of boundaries and terminology improves understanding when multi-agency professionals work together. However, there seems little awareness of the need to specifically protect looked-after children. 'Carers' are not named, and links are not made between the research which provides evidence of children in care as being at greater risk of all forms of abuse. (Teacher)

Think this is a loaded question. The section purports to protect children. In practical fact however, what it mostly does is to make parents unsure of themselves and to undermine their confidence. This is not of help to children. My evidence is the many conversations I have had with parents over the last few years in my role as group organiser for activities for under 5s and their families in our local Parish. (Teacher)

It has allowed parents to use the defence of 'reasonable punishment' in relation to physical punishment of their child. This gives mixed messages to parents and children- no other member of society is allowed to be hit by another. Professionals are taking time to promote non-violent means of managing children's difficult behaviour yet the law allows physical punishment by parents. (Medical/Healthcare Professional)

We are well aware of how exasperating children can be, however we do not feel that their behaviour justifies physical assault any more than it does between adults. We believe the present law which justifies 'smacking or slapping' and allows 'reasonable punishment' is too vague and allows physical punishment of children by parents and others - behaviour which would be illegal if applied to adults. (Parent / Relative)

Section 58 cannot improve protection because it perpetuates the "reasonable punishment" defence. Children are potentially vulnerable people who fully deserve the full rights of adults who are protected. (Parent / Relative)

A move in the right direction but not sufficient to protect children from assaults on human dignity and give them equal treatment. It should be unlawful to deliberately punish a child by hitting them. Reasonable force or restraint to prevent a crime or self harm is sufficient. (Teacher)

I believe there is now sufficient legal protection for children. If anything the balance has gone too far in that parents are frightened of using smacking as a form of loving discipline in case they fall foul of the law. I believe this to be a very dangerous development as it is very hard for parents to teach children that there are some boundaries that you do not cross. (Parent / Relative)

Whilst the protection of children is paramount, the protection of parents from

false and spurious allegations should be equally important. Section 58 has obviously had a positive effect in the protection of children, but I fear for the safety of parents and others. (Teacher)

It hasn't. It has, and continues to do so, confuse and complicate issues regarding safeguarding children and all those in a position to protect children and young people from 'common assault' and physical abuse, which within adult law protects one adult from physically harming another! Therefore children ought to be protected as a moral position, and certainly as a 'rights' provision within law, as already ratified within UN and European treaties. Children are, after all, human too, and have equal human rights as do you or I. (Local Authority)

Children already had protection under previous law, so I don't think this improved matters. In fact I think it is worse because children are at risk of their loving parents being charged with actual bodily harm for discipline that might previously have come under common assault if it ever went to court at all. (Parent / Relative)

As I understand the effect of clause 58, it is to take away the right of an accused to offer the defence of reasonableness in certain cases, i.e. if charged with Actual Bodily Harm. I cannot see that this improves the situation at all. The problems, where they exist, arise from the way individual parents treat their children. In cases of abuse (by definition, non reasonable behaviour on the part of parents) protection already existed. This only creates the situation in which parents themselves can be abused by those mounting a prosecution. (Parent / Relative)

Only a change to the law to give children the equal protection as adults would improve their protection. (Charity/Voluntary organisation)

The previous law already provided children with full legal protection from 'unreasonable' treatment. Nothing has changed. (Parent / Relative)

It was noted that there are still parents who believe it is appropriate to smack their children as a part of discipline responses and there was a general feeling that parents are not aware of a change to the law and are confused by the term 'unreasonable punishment'. Several members stated that the law appears to be protecting the adult and not necessarily the child and stated that the removal of 'reasonable punishment' would make a huge difference to the lives of children, one being that it will be possible to challenge those who are seen to hit children in public and to follow up when our patients report to us they are being hit only to be told 'we are allowed to smack them when they disobey'. (Medical/Healthcare Professional)

As a parent, I would ask that the right to discipline children by smacking be maintained. Discipline is a way of showing love. A short sharp smack at the time of disobedience is far better than letting them go being disobedient as teenagers and finishing up in prison. (Parent / Relative)

Hardly at all. Amongst those who see hitting children as OK, they feel that their stance is justified and upheld by the law. Many children have little faith that they will really be protected. (Just seen a girl right now who was beaten in a manner from which the law would have protected her - but who remained abused for 3 years as a teenager) (Medical/Healthcare Professional)

I don't believe it has! I think there was clearer guidance in the previous law and because of the confusion children are more at risk and parents are less informed! There hasn't proven to be any more success in protecting children or prosecuting parents with section 58 who "had" unlawfully assaulted their children. (Faith group)

The law prior to 2004 was perfectly adequate to prosecute child abusers; the only reason the changes were made in the Children Act 2004 was because of well-intentioned but ideology-bound persons and agencies who wanted a total ban on moderate physical punishment. The new law is a step backward because it has not protected a single child from real abuse but has probably caused enough confusion as to the likelihood of prosecution that it has deterred some good parents from doing their duty and making proper use of acceptable and necessary physical correction. (Parent / Relative)

I have no idea as I am not a legal person. How many persons from ordinary families do you expect to be able to answer this question? Which appears to discriminate against such persons due to the fact that they do not spend their time poring over legislation, as usually they are in the main well balanced and do not have any axes to grind. (Parent / Relative)

For those parents that are intimidated into not using smacking, psychological methods of control will be used. This can be far more damaging for children than a smack. In addition, under the new law this can also be counted as assault, so the parent is left with no sanction and total confusion. This leads to frustration and anger in both parent and child. (Parent / Relative)

To my knowledge, previous to section 58, children were not lacking in legal protection against unreasonable treatment. Given this, section 58 could not enhance their protection in any objective way. There is no evidence that the defence of reasonable chastisement was being misused prior to section 58. In reality all section 58 has accomplished is to reduce the legal scope available for resolving what can be very subjective issues. In a climate where unwarranted interference by social services in matters of family discipline has already had disastrous consequences in several cases, section 58 is quite likely to have entirely the wrong outcome for children. It raises the spectre of even more perfectly functional families being dismembered for all the wrong reasons. This actually translates in less legal protection for children due to the possibility of overcharging of parents in subjective legal cases. (Parent / Relative)

[My organisation] considers that an unambiguous legal position needs to be created which refutes the use of physical violence against children in any circumstance. (Charity/Voluntary organisations)

It is our experience [having received regular confidential reports from pastoral care specialists whom we have placed into primary and secondary schools in 21 English and 3 Welsh counties over the past 19 years] that very little protection for children results from the parliamentary establishment of laws. The type of parents who inflict heavy-handed and inappropriate physical punishment on their children will, in practice, ignore laws and their sanctions. Judging from the confidential reports we receive from our pastoral care specialists, just as many children continue to receive such punishments now as did so prior to the Act's implementation. (Other)

I strongly believe that a total ban on smacking will only lead to social services further meddling in family life, and wasting large resources, as well as police time, investigating trivial cases, whilst genuine child abuse cases will get overlooked. (Parent / Relative)

Legal protection can not and has not been improved for children when reasonable punishment can be used as a defence by parents. Evidence is obvious, how can it be legal to inflict pain on a child but illegal to inflict any sort of pain on an adult. (Parent / Relative)

In my experience parents have become even more confused by what they are or are not allowed to do - and what justifies "reasonable punishment". It appears there is a large variation in what is considered "reasonable" from family to family and even between professionals. Regrettably I don't think section 58 has improved legal protection for children, merely muddled the waters. Clarification would be more of more benefit, either you can legally hit your children or you can't, as a healthcare professional dealing with these kinds of cases I would prefer that you couldn't. It would at least clarify that when children come in to hospital bruised no defence of "reasonable punishment" can be provided by solicitors for those with the money to hire them. (Medical/Healthcare Professional)

Section 58 has led to some confusion amongst parents and professionals. Section 58 allows for defence of 'unreasonable chastisement'. The practical effect of this is that the actions one parents sees as reasonable, another may see as unreasonable. The availability of this defence causes the justice system some problems for the same reasons; what one magistrate sees as lawful, another may see as unlawful. (Police/Legal Professional)

As it perpetuates the 'reasonable punishment' defence [my organisation] believes that Section 58 sends mixed messages to parents. The use of smacking, slapping or any other physical punishment of children is a violation of a child's human right to live free from violence. We urge the Government to uphold the UN Convention on the Rights of the Child, which calls for the removal of any provision in statute or common case law which allows some degree of violence against children. The subjectivity of 'reasonable chastisement' makes the term meaningless and allows adults to commit common assault on children under the guise of 'discipline'. Rather than review the practical consequences of the reasonable punishment provision we urge

the government to abolish this provision and afford our children the same protection under the law as adults. (Charity/Voluntary organisation)

It has not improved protection enough. Any physical punishment should be illegal, even by parents. Then, if I as a parent believe it is in the best interests of my child to smack them, or to pull them sharply from danger, I must be prepared to be taken to Court, and even to be convicted of assault. The law should provide absolute protection for children, and people who need to go into "grey areas" (e.g. parental smacking) should be prepared to break the law. (Parent / Relative)

Section 56 cannot improve protection because it perpetuates the "reasonable punishment" defence and creates confusion not clarity to both parents/carers and some medical staff. As a Health Visitor I have witnessed in my daily work how the current law has undermined the efforts to promote positive discipline and sends out a dangerous message about acceptability of violence. Parents have told me that they will carry on smacking their child if necessary as it is not against the law. (Medical/Healthcare Professional)

Given that children already had full legal protection against "unreasonable" treatment under the previous law, section 58 was never going to give them any greater legal protection. (Parent / Relative)

I have doubts about Section 58 of the Children's Act and believe that it should be repealed and a return made to the position that previously existed. I further believe that the law should positively give parents the power to use moderate and reasonable physical chastisement to discipline to their children. (Parent / Relative)

No headway can possibly be made into reducing levels of child abuse while physical punishment remains legal. It is only by sending a clear and unequivocal message that violence against children is no longer condoned in our society that this aim will be achieved and the only way of sending such a message is the abolition of the defence of 'reasonable punishment'. (Individual)

I feel the law as it stands is adequate protection. Any further legislation has the ability to criminalize parents. Children are clever enough to know this and use it to get away with bad behaviour. (Parent / Relative)

Section 58 adds nothing to the child's protection, but places the parent in a situation of greater risk in that he is deprived of the defence of reasonable punishment. It makes frivolous accusations therefore easier, and places the child in the greater danger of losing a responsible and caring parent. (Charity/Voluntary organisation)

It seems to us that the existing laws without Section 58, including the guidelines under the Human Rights Act of 1998, which require the courts to take into consideration a number of factors in cases of any charges to parents of harm to their children, are enough to protect children while also

acknowledging the rights of parents to discipline their children with reasonable physical punishment. (Parent / Relative)

Children already had full legal protection from unreasonable treatment under existing law. Section 58 could not increase that protection. On the contrary they have less protection, in that they are now at risk of having their parents taken to court and charged with Actual Bodily Harm for ordinary discipline that might have attracted the lesser charge of common assault, IF IT HAD EVER GONE TO COURT AT ALL. The defence of reasonable chastisement was not being abused. It was rarely used, 11 times between Nov 2001 and Aug 2004, and only 5 of those resulted in acquittals. There is no evidence that use of this defence meant that parents who had unlawfully assaulted their children were avoiding prosecution. (Parent / Relative)

I am not sure that one can say that children weren't protected under the reasonable chastisement law. It never has been legal to assault children even under the previous law. In fact I do believe that children can be served less well under this current law as it exposes them to the increased risk of parents being charged with actual bodily harm when as before the charge would have been common assault, if it was brought to the court at all. (Parent / Relative)

The 'reasonable punishment' defence remains difficult to understand. Clarity, as well as fairness, requires affording children the same legal protection as adults against assault. In evidence I submit my lengthy professional experience, which has caused me to move gradually from the 'reasonable punishment' position to that in which abolition of the parental right to administer physical punishment is the only feasible course. Further attempts to refine the present position will be unworkable. I am convinced that the only practicable and morally defensible position is to remove the 'right' to hit children and to provide guidance that promotes non-violent discipline. I do not propose to answer the remaining questions since I am now at some distance from contemporary practice. (Social Worker)

Section 58 still provides opportunity for parents to argue that it remains reasonable for them to use physical punishment against a child. From my own experience, bringing fear and pain into a parent-child relationship can irrevocably damage that relationship. Every child deserves the right to equal protection from assault, no less than any adult. (Teacher)

Because Section 58 contains the notion of 'reasonable chastisement' it creates confusion. We really need it to be made very clear for everyone who has responsibilities for children whether they are a parent, carer or professional that the law is very clear that children have the same rights as any adult with regard to physical protection. The message must be very clear that it is not permissible to hit children in any circumstances. (Parent / Relative)

Children should not need protection from assault by their parents; a ban on smacking would be a more effective approach which would encourage parents to employ more positive forms of discipline. I recently observed a



mother, burdened by shopping, who was exasperated by her tired child's crying as they waited at the bus stop. She said "I'll give you something to cry for" as she slapped him hard across the back of his legs. Given the current law, I felt unable to intervene. (Parent / Relative)

Section 58 has in part improved protection by clarifying that any form of actual harm cannot ever be justified. (Charity/Voluntary organisation)

S. 58 could not possibly improve legal protection because it still allows violence to be used against children in the guise of discipline, and can only cause confusion. The way these consultation questions are framed precludes meaningful answers. When I see children being 'smacked' in public I am unable to comment because of S.58. (Parent / Relative)

I am a mother of two girls and I would like to defend smacking as a small part of a caring system of discipline. I think it has value in the right circumstance and I see no link between sensible smacking and abuse. I do not want to see smacking made illegal. How do I get my view across? There is no scope for my opinion on the section 58 consultation form, even though the review claims it 'seeks views of parents on physical punishment'. (Parent / Relative)

This is limited. No detailed study has been undertaken or a record kept of cases that would be relevant to this question, but discussion with managers indicates that there has been limited change since 2004. The reason for this is as follows: the consultation document refers to the fact that the law needed to be changed because it did not reflect developments in human rights, especially children's rights thinking. Child protection practice was also ahead of the law change. While this meant that a prosecution could fail on the basis of the defence, practice was to discourage the use of corporal punishment that could lead to actual injury to a child and to seek to prosecute where the child was injured. Therefore in effect children have the same legal protection and are safeguarded by local procedures and processes in much the same way as previously. (Local Authority)

There is such ambiguity between common assault and actual bodily harm, who decides what charge is to be brought upon the parents. (Parent / Relative)

I have not seen a reduction in the number of children examined for child abuse since Section 58 was brought in. (Medical/Healthcare Professional)

Section 58 cannot improve protection because it perpetuates the 'reasonable punishment' defence and creates confusion not clarity. (Charity/Voluntary organisation)

The limiting effect of S58 of the Children Act 2004 means that minor assaults by a parent on a child, where grazes; scratches; minor bruising; swelling; superficial cuts or a black eye are caused are now charged as assault occasioning actual bodily harm for which the defence of reasonable chastisement is no longer permissible. The law is clear; it is no longer lawful

to hit a child in order to correct behaviour if this results in actual injury other than 'reddening of the skin' or unless the injuries are considered to be more than 'transient or trifling'. Attempts to define acceptable hitting are inevitably fraught with difficulty. Achieving a balance that allows parents to continue to lawfully correct their children by physical punishment, while ensuring that children are also protected from harm, challenges all those working to protect children. The way in which the law is drafted is crucial in order for the legislators to convey their true intentions and make this accessible to those with responsibility for law enforcement. This is made even more important when the law retains the permitting of an act but applies limitations. There can be uncertainty about whether a law has been breached unless actual injury believed to be inflicted deliberately is evident at the time of an investigation. Even when this is brought to the attention of agencies the assault has usually taken place behind the closed doors of family life. A study conducted by Cawson et al (2000) identified that 25% of children in the UK have experienced one or more forms of physical violence during childhood including being hit with an implement or a fist, shaken, thrown or knocked down, beaten up, choked, burned or scalded on purpose or threatened with a knife or gun. For 78% of these children, this violence happened within their own home. The person responsible was most frequently cited as the mother (49%) or the father (40%). What we don't know is how many of those parents were charged with the assault of their child as a result. The majority of violent offences are not broken down by the age of the victim in the national crime statistics. Therefore while the numbers of violent offences brought are known, the age of the victim, or the relationship of the perpetrator and victim is not known. An offence is officially recorded by the police when it is brought to their attention, however only 'notable offences', that is the more serious offences, are notified to and recorded by the Home Office. The offence of 'cruelty to or neglect of children' became a notifiable offence only from April 1st 1998. The number of recorded crimes under this offence in the year April 1st 2002 to March 31st 2003 was 4,109 in England and Wales. (Crime in England and Wales 2002-2003). This is a relatively small number when compared to the 28,800 children placed on the child protection registers in England and Wales and illustrates that very few cases of child abuse are recorded as crimes. Data informing of the exact nature of the abuse suffered or again the family relationship of the offender to the child victim is not recorded. The number of convictions for these crimes and for offences of assault in the same year totalled 494, (12%). Again what we don't know is the number of offenders who were the parents/carers of the child victim included in the 12%. Nor do we know what percentage of these cases was the result of physical assault. A brief survey undertaken locally of 69 health visitors across 5 local authority areas to determine the numbers of children on the CPR under the category of physical abuse, the number of parents/carers charged with the assault and number of convictions indicated a low conviction rate (11%) of parents for the physical abuse of their children. This is not surprising in view of other findings. Research undertaken by Sussex Police revealed that many parents who kill their children escape conviction. During the three years before December 2000 the police forces in England and Wales dealt with 492 cases (more than 3 per week) where children under 10 years had been unlawfully killed or seriously injured by their parents or carers. Of 366

completed investigations, a total of 225 (61%) led to no charge at all. Only 141 (39%) reached court, with 86 leading to no prosecution. A total of 21 (6%) of the remaining cases were dismissed and another 6% acquitted. The conviction rate was 27%. This is striking when compared to the 90% conviction rate where a child is killed by a stranger. (Murphy, 2002, NSPCC). The facts speak for themselves, very few cases of child abuse are brought to court even where it is considered that the extent of their treatment is such that impairment to health and or development has or is likely to occur as a direct result (child protection registration criteria) or indeed even when a child is unlawfully killed. Arguably it was an offence to cause injuries prior to this amendment, though few cases were actually brought before the courts as has been shown. Therefore it is not surprising that little seems to have changed as a consequence of the Section 58 amendment to improve legal protection to children. (Medical/Healthcare Professional)

Section 58 has provided 'more than adequate' safeguards against physical abuse of children. In fact adequate safeguards already existed under other legislation that would allow the Authorities to take appropriate action for cruelty to children, including removal of the child from the home if necessary. Therefore Section 58 was actually totally unnecessary. If you look at the extreme cases of Child cruelty that have taken place over the past few years you will realise that Section 58 will not make the slightest difference. Lack of action by Social Services and NOT lack of Legislation was the critical factor! (Parent / Relative)

S58 may have improved legal protection for some children in cases of alleged assault by their parents simply because it has restricted the circumstances and occasions where a defence of 'reasonable chastisement' can be used. However, it is surely obvious that another small group of parents will still be able to get away with physically abusing their children while such a law exists. (Parent / Relative)

[My organisation] has for more than 10 years supported law reform to remove the "reasonable punishment" defence completely to provide children with the same protection as adults under the law on assault. We do not regard section 58 as "improving" legal protection. Removing use of the defence from those charged with cruelty, wounding and actual and grievous bodily harm leads to no practical improvement, because for some time courts have not accepted use of the defence for parents and others who cause significant injuries to children. The message sent by section 58 is that violence against children can be justified as "reasonable punishment". This is a human rights and equality issue as well as a child protection and public health issue. Others have documented the pressure which the UK is under from international and European human rights mechanisms to remove the defence completely and give children equal protection. Concerns over child protection have grown; the current government has not provided children with the same protection from assault as adults. By failing to give children equal protection the UK breaches obligations under the UN Convention on the Rights of the Child, the European Social Charter, the International Covenant on Economic, Social and Cultural Rights and other human right treaties. In 1995 the UN Committee on the

Rights of the Child, the Human Rights Treaty Body for the UN Convention on the Rights of the Child made a formal recommendation to the UK government to prohibit corporal punishment and raised the following anxieties over the use of reasonable chastisement. "The committee is worried about the national legal provisions dealing with reasonable chastisement in the family. The imprecise nature of the expression of reasonable chastisement as contained in these legal provisions may pave the way for it to be interpreted in a subjective and arbitrary manner. This committee is concerned that the legislative and other measures relating to the physical integrity of children do not appear to be compatible with the provision and principles of the convention, including those of articles 3, 19, and 37". (Medical/Healthcare Professional)

Clarification of boundaries and terminology improves understanding when multi agency -professionals work together. It is especially helpful to more clearly define those who are specifically prohibited from using corporal punishment. However in light of the Laming report it seems a huge anomaly that private fostering is not included with foster care. (Charity/Voluntary organisation)

We are concerned that nannies and babysitters are still allowed under the law to use 'reasonable punishment' against children (with parents' permission). (Charity/Voluntary organisation)

I can't say whether there has been any improvement; however, it is both my personal and organisations opinion that those parents who do assault their children will continue to do so whatever the law says. I am a big believer in physical punishment, as in my experience with both my own children and watching many other parents with their children there are times when a smack is the most expedient form of discipline. The problem is that there can often be a fine line between reasonable and excessive punishment, which in my opinion cannot be legislated for. I have found that generally it is the innocent that are penalised in these cases. (Charity/Voluntary organisation)

Not at all. The concept of "Reasonable punishment" seemed to me to virtually allow things to stay as they were, leaving children unprotected. Parents could still justify hitting their children and there is a general acceptance that smacking children was and is an appropriate response to unacceptable behaviour. (Charity/Voluntary organisation)

I think that section 58 has proven to be a compromise so ambiguous that it has failed to provide any improvement at all. My evidence is purely circumstantial and anecdotal. In debates and personal discussion people believe that parents alone decide what is reasonable punishment. This feeds through as meaning that: the parental role is supported by the state to the extent that the degree of assault on a child that is acceptable is that which the parent thinks is satisfactory. (Social Worker)

The law is clear it is no longer lawful to hit a child in order to correct behaviour if this results in actual injury other than "reddening of the skin" or unless the

injuries are considered to be more than "transient or trifling". Achieving a balance that allows parents to continue to lawfully correct their children, by physical punishment, while ensuring that children are also protected from harm, challenges all those working to protect children. (Local Safeguarding Children's Board)

Section 58 has not improved protection as it fails to give a clear legal position on the issue of parents' rights to hit their children in the name of 'reasonable chastisement'. It creates confusion and to little to safeguard children from violence. Having worked previously as a Social worker I struggled at times to provide a clear message to parents as to the damaging effects of violence when the law does not 100% support this message. It is the thin end of the wedge, and does not assist in delivering a robust child protection strategy. (Parent / Relative)

This is a spurious question; legislation that continues to sanction a level of violence against children cannot improve legal protection for children. On the contrary, it frustrates all concerned whether pro or anti 'reasonable chastisement' as it is an uncomfortable 'fudge'. This was certainly evident in the early debates around Section 58 where on one hand, those concerned with the welfare of children felt disempowered by it arguing that it makes the task of protecting children even more difficult given such ambiguous parameters within which to work. On the other hand, those in favour of physical chastisement of children expressed views that imply that their physical responses to children would now need to be much more premeditated in terms of where they hit their children and how much force they should apply. In this respect, are we teaching perpetrators to become more skilled in physical abuse, perfecting the art of not leaving any bruises? Again, this runs counter to the principles of challenging child abuse which is often a covert activity where children do not have a voice. The mere threat of violence can be devastating to a child, affecting them for the rest of their lives. It is very difficult to reconcile national campaigns against the abuse of children with such a half-hearted approach. Should those working for Childline discard allegations made by children which they consider to be not meeting the threshold for physical violence? How does this square with listening to and validating the experiences of children? Unless 'reasonable punishment' is abolished, as a society we are inhibited in moving forward when it comes to safeguarding children and essentially delivering the objectives of Every Child Matters i.e. staying safe. (Social Worker)

[My organisation] is clear that it wants to see the current law changed. Section 58 does not satisfy either the moral argument that children and adults should have equal protection under the law; or the human rights obligations outlined in the following: The concluding observations from the UN Committee on the Rights of the Child to the 1st and 2nd UK government reports on the implementation of the UN Convention on the Rights of the Child, which stated that "governmental proposals to limit rather than remove the reasonable chastisement defence do not comply with the principles and provisions of the Convention . . ." The European Committee of Social Rights' finding that, in failing to prohibit corporal punishment in the home, the UK government is in

breach of Article 17 of the European Social Charter We are not aware of any cases arising under s.58, but believe it unlikely that s.58 has improved legal protection for children because it still gives parents and other adults the right to hit children, though apparently not to the point of inflicting a visible injury. Even that is open to challenge. In the Sentencing Guidelines Council's current consultation on the operation of the assaults offences [1], in the Sentencing Guidelines Panel's accompanying advice to the Council, the confusion that surrounds s.58 is exemplified by the recommendation that, in cases where actual bodily harm (now an offence under s.58) may have taken place, the defendant can still plead that their intention was no more than 'lawful chastisement' and they neither intended nor foresaw that the physical punishment would lead to visible injuries. If agreed to, these factors will count as substantial mitigation – thus making a nonsense of the alleged additional protections available to children under s.58. We wish the government to take particular note of the following: After the amendment was added to the Children Bill, government made no concerted effort to inform either parents or practitioners of the new law around physical punishment. The flurry of media coverage at the time was transient, emotive and often inaccurate. This means that the majority of parents and members of the public are unlikely to even be aware of s.58 and its implications, which makes the idea of a review rather superfluous – unless that review includes the possibility that a widespread demonstration of ignorance of the law will lead to a genuine public information and awareness campaign. In the DCSF's current consultation on Staying Safe, the review of s.58 is referred to in the 'adult' version, but not in the version written for young people, nor are any questions about physical punishment included in either version. In its wide-ranging inquiry into the relationship between the state and the family in the upbringing of children, the Commission on Families and the Well-being of Children [2] looked at the issue of Physical Safety and the Family (pp.25-28) in which a panel of experts refer to the available research and reach the conclusion that "while there is a significant distinction between physical punishment and maltreatment, the one nevertheless has a tendency to predispose to the other." (para.48). Section 58 does not offer sufficient protection against violence in the home. 1] Sentencing Guidelines Council (2007) Overarching principles: assaults on children and cruelty to a child consultation guideline. Available at <http://www.sentencing-guidelines.gov.uk/index.html> 2] Commission on Families and the Well-being of Children (2005) Families and the state: two-way support and responsibilities. Bristol: Policy Press. (Charity/Voluntary organisation)

It has not. The changes have never been advertised or explained in detail to the public, were minimal and have if anything confused matters for parents and professionals. The effect therefore is that nothing has changed. The Government remains in breach of Article 17 of the European Social Charter. This should be remedied immediately. (Other)

[My organisation] is a member of the Children Are Unbeatable! Alliance, the broadest coalition ever assembled on a children's issue. [My organisation] believes that all children have a fundamental right to be treated with dignity, and with respect for their personal and physical integrity. To deliberately

physically hurt a child in any way, for any purpose, is an unacceptable and counterproductive way of engaging with them, just as it is between adults. We do not support the legal discrimination that Section 58 has further entrenched, whereby children are not entitled to the same level of protection from physical assault as adults. What section 58 has sought to do is to define when it is acceptable to hit a child; it has not improved legal protection for children because it is still legal to hit children and its message is that it is acceptable to hit and hurt children. [My organisation] is concerned about the narrowness of the current review. We accept that it fulfils to the letter, the Minister's commitment during the passage of the Children Bill in 2004 but the Government should have taken the opportunity to be bolder and to undertake a more robust review, particularly in light of the current "Staying Safe" consultation. We agree with the opening words of the Secretary of State in his foreword when he says, "Keeping children and young people safe is a top priority. It is the responsibility of us all." It is very hard to understand how this message can be communicated effectively when the law continues to uphold a parent's right to physically assault his or her own child. The law has changed on physical punishment in schools, residential homes and for all childcare facilities in recognition of both its wrongness and its ineffectiveness. The defence of 'reasonable punishment' works against the aims of effective safeguarding and the promotion of positive parenting. (Charity/Voluntary organisation)

[My organisation] believes that the legislation as it currently stands legitimises the use of physical punishment: 49 per cent of parenting practitioners surveyed felt that the continued existence of the reasonable punishment defence actually encourages parents to use physical punishment. Therefore, although the legislation is confusing, simply issuing guidance to clarify it could have the side effect of seeming to sanction the use of 'acceptable' forms of physical punishment. (Charity/Voluntary organisation)

We do not enjoy being asked to assess the "success" of a legal framework that legitimises violence against the smallest and most vulnerable people in society. (Charity/Voluntary organisation)

The change in 2004 was so limited that it did not 'catch up' with the attitude and approach adopted in child protection practice. (Local Safeguarding Children's Board)

## **2 To what extent have the changes brought about by section 58 altered the practice of those working with children and families in considering incidents involving an alleged assault by a parent upon a child?**

I feel that section 58 has little impact on those working with children and families, apart from informing the families that it is a criminal offence to leave a mark on their child when physically punishing them. (Local Authority)

I believe that complete banning of parents chastising of their children by physical means would not be practical and could criminalise parents. It could also hamper the dialogue between parents and professionals, as well as between children and professionals if they believed that a police action could ensue. (Medical/Healthcare Professional)

Professionals recognise that parenting is sometimes a difficult job and there is a need for help in finding positive and effective forms of discipline that lead to long term improvements in child's behaviour. Professionals see the current law (Section 58) is unjust and unsafe. It does not satisfy human rights obligations and it undermines the promotion of positive non-violent discipline. It is not helpful for professionals that Section 58 of the Children Act 2004 allows the common assault of children to continue to be justified as "reasonable punishment". (Medical/Healthcare Professional)

While hearsay suggests that the likelihood of prosecution of a parent who uses implements to beat a child may have risen, most Police and Social Services personnel agree that as long as it is legal to "smack a child a bit", parents will continue to get away with smacking them "a lot" and it will continue to be difficult to educate parents to adopt more positive disciplinary policies. (Medical/Healthcare Professional)

Organisations like Wearside Women in Need have advocated positive parenting strategies for decades; section 58 has not changed this. What is needed is a clear legislative framework to send out a strong message that hitting children is wrong. (Charity/Voluntary organisation)

I think that schools/childcare facilities have had to change their practice, I would imagine parents generally continue down the lines that they always have. (Parent / Relative)

Probably hasn't - a change would occur if 'reasonable' punishment were abandoned as a concept. When we know that it is always unacceptable to hit a child or young person, then we have clarity, and can proceed on a firmer basis (Medical/Healthcare Professional)

It has helped but is still open to debate as parents can use the "It's not against the law" excuse for assaulting a child and argue that the force used was "reasonable". (Parent / Relative)

Has increased awareness of professionals, parents, carers and young people of differences between chastisement and assault, and consequences of assault. (Teacher)

I comment on my own personal practice as a child and adolescent psychiatrist- I consider whether the act caused injury and follow child protection procedures in the normal way. My professional view is that no physical punishment is acceptable but the law does not support me to promote that view. This can be impairing in clinical work. (Medical/Healthcare Professional)



No response. No evidence. (Teacher)

I know a bit about the legal changes because of my work with children. But as a parent I'm not aware of any change. I'm a lone parent and never hit my 9 year old daughter so my family life is peaceful and involves her and I having family rules and agreeing consequences for bad behaviour. In my council estate I don't see any changes in family life- kids are hit and sworn at and always have been. (Parent / Relative)

Parents and indeed professionals who work with children are increasingly in fear of any physical contact with children in case of allegations. The allegations by children supersede any reasonable doubt whether the adult is guilty or not. (Teacher)

They haven't. There is no evidence to show they are protecting children from physical forms of abuse, they only compound and confuse the matter. What section 58 does do, however, is send a message throughout society that it's ok, within certain circumstances, to physically harm and emotionally frighten children. Can anyone ask themselves that this is ok, when much of our other UK law suggests otherwise. These contradictory messages are complicating the issues. We ought to take a leaf out of our European neighbours and ban smacking, as evidence in those countries suggest a positive acceptance that it's not ok to physically harm children. (Local Authority)

Parents are deprived of the defence of reasonable chastisement. Children make differently and so there is a risk with this law of unjust prosecution of good parents. (Parent / Relative)

Section 58 has not positively altered the practices of those working with children and families. Practitioners did not condone the use of physical punishment prior to Section 58, but they were unable to explain to parents that it was unlawful, and that alternative methods must be used. This situation has changed in no way whatsoever. As a counsellor I can state that Section 58 has added nothing positive to my practice. I frequently find myself in a difficult place when counselling victims of physical abuse (which can be extremely damaging and distressful to the child, however "minor" the act may seem to the law) as I am unable to say that what is happening to them is unequivocally wrong with any support from the legal authorities. In cases of sexual abuse I can immediately reassure the often blame-filled young person that they have done nothing wrong, and that the perpetrator is to blame, that they should not feel any guilt and that we can help them to change the situation. These strong and empowering statements are not available to me in the case of, for example, a 9 year old who may be being slapped around for no apparent reason several times a week (actions which may well leave no physical marks). All I can offer this child is the fact that [my organisation] thinks it is wrong, and that home should be a safe place. This is a message which the government should be endorsing. The example above is not a one off – 4500 call [my organisation] every day. The Government's inaction on this issue continues to be interpreted as its condoning of physical punishment.

This attitude permeates into society, and has lead to the situation of three quarters of babies in the UK being legally hit by their parents before the age of one. (Charity/Voluntary organisation)

There is a risk that parents may be vulnerable to unjust prosecution. This is especially so given that some children mark more easily than others. (Parent / Relative)

It's easier to say that that violence can never be justified (and just hope that we won't have to get into a philosophical debate as what others might consider to be 'reasonable'.) I tend to err on the side of saying that no violence is reasonable (hitting is violence) and take it from there (Medical/Healthcare Professional)

Parents who may act reasonably in chastising a child may be subject to a charge of actual bodily harm. And because some children mark more easily some parents are more at risk of these charges, when actually they have acted reasonably. (Faith group)

It has not specifically altered my practice. Evidence-based child protection procedures remain the same and concerns regarding physical harm to a child have not changed as a result of s58. However it has meant that I have been asked by parents when it is acceptable to use physical chastisement. As a child protection worker I do not believe it is acceptable and s58 has hindered my practice, as whilst I am advising them of other strategies to punish a child, they are telling me 'but it is not illegal to smack them'. On a personal level, I was in a supermarket quite recently when a mother slapped her child hard. Such was the force and the scream of the child, you could literally see other shoppers stare in disbelief accompanied by sharp intakes of breath. I challenged the mother who told me to mind my own business as she had done nothing wrong, that it wasn't 'against the law'. I couldn't help but question not only what may go on behind closed doors if that occurs in public and cannot be acted upon, but the message it gave to the child - that other grown ups were powerless to help so what chance did the child have? (Social Worker)

Section 58 has offered child care specialists who work with children and their families extra information with which to advise and to seek to educate parents. (Other (please specify))

As a facilitator of parenting groups, section 58 is very confusing to adults and for us to explain to those attending the course. We encourage positive discipline which prevents parents losing control of their actions (which is inflicting pain on a child) and equipped them with other techniques other than violence. (Parent / Relative)

S58, like any version of the defence, simply serves to obscure and obstruct a proper implementation of the Government's strategy above. The defence relies on a large degree of imprecision as to what constitutes 'reasonable', it is a lawyer's paradise, and cannot help those working with children and families.

S58 is still an "in-between" measure characteristic of those who want to fudge the question because they fear "public opinion". It is salutary that when the case was put in recent months re banning of smoking, the Govt and Parliament rejected half measures such as restricted areas in pubs etc. The reason was that everyone knew that this was still allowing people to come to harm via secondary smoking. The fact is that S58, though it may reduce the incidence of assault on children, does not remove it altogether. To argue that a ban will be ignored because punishment is mainly undertaken in the home is no justification. (Charity/Voluntary organisation)

It is difficult in some cases to distinguish common bodily assault and actual bodily harm. Section 58 facilitates the prosecution of parents for actual bodily harm and deprive them of the defence of reasonable chastisement. (Parent / Relative)

Children vary in the ease with which they mark/bruise and thus parents of easily marked children are more vulnerable to unjust prosecution than others. Parents are not now able to use the reasonable chastisement defence if they are simply charged with actual bodily harm. However, they may have acted entirely reasonably. (Parent / Relative)

The climate of fear encouraged by section 58 has failed both to support parents and to help those working with children in the appropriate and effective use of physical correction. (Parent / Relative)

Authorities can more easily bring a charge against a parent, but that accusation may not be on good grounds. Not all children respond to the same smack equally - some mark more easily, for example, and therefore the parent is left without any fair defence. The tendency will be to rob parents of their confidence in sensible discipline, and therefore the care given to the child will in fact be reduced. (Charity/Voluntary organisation)

I believe it has made the control of children in general, and in schools more difficult. A number of my friends, who are teachers, say this they are finding children's behaviour harder to control when they (Children) know they will not be restrained or punished physically. (Parent / Relative)

Practice seems to have changed very little or not at all. The threshold for intervention remains at a level of visible injury. We still cannot give clear guidance on what is acceptable and what is not. This creates an unnecessarily large "grey area", putting children at further risk. (Medical/Healthcare Professional)

It has created confusion, undermining the promotion of positive, non-violent discipline. At its worst it provides abusive parents with legislative sanction for assaulting their children. It is my view that this contravenes the UN Convention on the Rights of the Child. (Faith group)

[My organisation]'s experience is that the introduction of Section 58 has not produced large changes in our professional responses, nor in that of other

agencies. [My organisation] already had clear policies that forbade the use of physical chastisement of children and young people, by anyone, on [My organisation's] premises. Our work is clearly based on children's right to be protected from physical violence of any sort, as well as working with parents to develop more effective options. (Charity/Voluntary organisation)

Children should have an equal right to protection. Section 58 makes a mockery of Every Child Matters. Issuing guidance will just cloud the issue further. It is not acceptable to physically abuse any human being. Full stop. It is clear from our work with young people that their early experiences of physical abuse as infants and children informs their attitudes and behaviour in later life - and is one of the biggest causes of domestic and other violence. (Charity/Voluntary organisation)

We believe that confusion continues to exist and that consequently parents remain at greater risk of unjust prosecution and lack a vital previously available legal defence. (Charity/Voluntary organisation)

The term 'reasonable punishment' is highly subjective, and its implementation as a result will be haphazard at best. Those working with parents and children therefore have no sense of uniformity or convention in how to respond, because they will be required to judge what is 'reasonable'. If all physical punishment was banned, this problem would be resolved. (Teacher)

The only alteration is likely to mean more thought is given as to how abuse can happen without marking the child rather than thinking about non-violent options for disciplining a child. Further guidance or explanation of Section 58 is more likely to confuse parents and others because it will offer lists of what is and what isn't acceptable 'reasonable punishment' within the framework of Section 58. (Charity/Voluntary organisation)

In my work as child protection adviser disclosures of physical abuse are less clear as is the appropriate response. One example would be a child who confides that he has been smacked, appears fearful but is without physical markings. Discussion with Children's Social care raises the issue that Section 58 re-affirms parents' and others right to hit children and undermines any alternatives. (Faith group)

How do you define 'reasonable punishment'? Parents and children are different. Some children will bruise more easily than others and a mark will be left. What about the child who doesn't; do this mean that they have to endure more than the next child before anyone does anything? How can practice be altered when there is not a clear message that hitting children is not acceptable? Why can you hit a child when you can't hit an adult? Are children not as worthy of protection? How can professionals working with children and families provide a clear message to those with whom they are working when the law clearly undermines this? (Charity/Voluntary organisation)

It has failed to make any positive impact as it continues to say to parents and others that it is okay to use violence against your children. How can a

practitioner respond to a parent who has hit their child, where there are concerns regarding significant harm to the child, and the parent responds, 'it's not against the law to hit my child and I haven't left a mark?' [My organisation] provides support to members across the country providing a range of children's rights, advocacy and participation services. Our members and the children and young people with whom they work have repeatedly highlighted the inequity that exists between protection for children and for adults. (Charity/Voluntary organisation)

I think that parents feel attacked because they are trying to bring up their children and this includes smacking. There seems to be a grey line between common assault and actual bodily harm which causes confusion and fear amongst parents. (Parent / Relative)

There is little evidence that practice has altered as a consequence of this amendment and practice has not been aided by the apparent co legislation. The Children Act 2004 was drafted to build on the 1989 Act and strengthen the responsibilities of key agencies by placing on them a new duty to 'safeguard children and promote their welfare' (Section 28 Children Act 2004). Safeguarding and promoting welfare are 'two sides of the same coin' we are told. The former requires that children are protected from impairment to their health or development as a result of maltreatment. Whereas promoting welfare is a proactive responsibility. It is difficult to see how the requirements of the Act to promote welfare is congruent with permitting a child to be hit when there is a considerable body of international research that evidences the harmful effects of physical punishment. (Nobes and Smith 1997) or indirectly as a result of a fall when struck (Elliman and Lynch, 2000). Children physically punished are at risk of developing major social and psychological problems such as physical violence and depression (Straus, 2000). In addition there is evidence that corporal punishment is a risk factor of physical abuse (Gil 1970; Kadushin and Martin, 1981; Straus and Yodanis 2000) leading to approximately 66 deaths in the UK each year (NSPCC Child Death Statistics, 2004). The Governments emphasis on the family, its preservation, the entitlement of its individual members to a family life and to due legal process can at times sit uncomfortably with expectations of the state to intervene where children require protection from their families (Henricson and Bainham, 2000). Getting the balance right contributes to the uncertainty of professionals about advising parents on and also when it may be necessary to intervene in family life. Professionals are regularly called upon to advise parents on the 'appropriateness' of their disciplinary practices. In order to respond and without clear guidelines, they will draw upon their own experiences or take a rule of thumb approach, drawing on arbitrary boundaries and thereby give mixed messages. UK law still condones the physical punishment of children at any age but practitioners have a professional duty to base their practice on evidence. The evidence is clear, hitting children does them more harm than good however without a sound legislative framework, the dilemma for professionals is in how to incorporate this into practice. (Medical/Healthcare Professional)

Agencies are scrutinising more closely whether an offence has been

committed. This is OK, but unfortunately it is already leading to cases where parents have been arrested by Police for alleged assault. This can, for example, be due to exaggerated accounts from children, malicious reports from hostile (separated) parents, or interfering neighbours. (Parent / Relative)

In our view the awareness of professionals working/supporting those working directly with children and families has increased in terms of differentiating between chastisement and assault and the consequences of assault. There is now more acceptance of good practice such as amongst the teaching/support staff working in schools; early years provision-nursery family centres; residential and foster care. However in order to achieve a more substantial change in terms of peoples practice there needs to be a positive campaign which explains the rationale rather than a reaction to notable cases where children are physically chastised. We need practitioners working with children and families to be versed in the reasons why there should not be corporal punishment and for those practitioners to have sufficient time and resources to help families change their parenting style which is not as simple as not using corporal punishment. Our experience is that this deeper level of understanding can be very variable within and between local authorities. For example, there is some excellent training of foster carers by some organisations which works hard to achieve this level of understanding. Whilst other training is based more on a deficit model of you must not use corporal punishment without achieving the underlying rationale based on a child's needs. (Charity/Voluntary organisation)

We would refer all cases to social care services where children are alleging assault by an adult; therefore this has not directly changed. However, with a lack of clarity regarding this, practitioners tend to not see minor level assaults against a child as a child protection concern (Medical/Healthcare Professional)

Paediatricians have not altered their practice with children and families as a result of the new law. Paediatric practice is to listen to the child and carry out an examination. If the child discloses an assault by the parent then this would be considered as likely to be true regardless of the presence or absence of a lesion on the skin. Paediatricians would be unwilling to agree with parents that it is acceptable to hit their child; hence the new law has not assisted their practice and could add to confusion over what type of discipline should be used. [My organisation's] advice is that corporal punishment should not be used as a form of discipline and that other methods are always preferable and likely to be more effective. Hence Section 58 has not assisted the practice of paediatricians but has made it more difficult to give consistent advice. (Medical/Healthcare Professional)

There is little evidence that practice has altered as a consequence of this amendment and practice has not been aided by the apparent confused messages contained within legislation. The Children Act 2004 was intended to strengthen the responsibilities of key agencies by placing a new duty to safeguard children and promote their welfare under Section 28 of the Children Act 2004. This is in direct conflict with Section 58, which allows corporal

punishment of children. Professionals working in the field of child protection face a dilemma of how to incorporate this into practice. (Local Safeguarding Children's Board)

It has made it more difficult. For example, I work in [an area] which has a high proportion of Black African families. We get a disproportionate amount of referrals about harsh physical chastisement within many black African families who say it is acceptable to hit children in their culture. We then have to go and do an initial assessment which usually involves us having to assess the level of the 'chastisement', and then saying to the family that 'harsh physical chastisement', is not acceptable or legal in the UK, but you are allowed to use 'reasonable force'. This just ends up with us sounding unclear and the family not knowing their rights. As I said above, injuries are not always noticeable on a child with black skin and also parents who do use excessive 'abusive' force against their children will try and hide it and coach the child not to speak. (Social Worker)

In sure start we always say that we operate a no smacking zone. We explain why and we teach parents other ways of managing their children's behaviour. Established sure start parents support newer parents as their thinking changes as they are given clear information about the dangers and damage of hitting children. However parents now sometimes say that the law says they can hit their children as long as it is reasonable - and it is harder for us to enforce our expectations. (Other)

Section 58 causes those who are prosecuting to bring a charge of actual bodily harm against parents and so deprives them of the defence of reasonable chastisement when the parent has in fact acted reasonably. (Parent / Relative)

Professionals continue to be undermined in their efforts to promote non violent parenting by this ambiguous and unclear piece of legislation. What message is transmitted to children if they are brought up by loving adults who also hit and cause humiliation by assaulting them? My own experience in social work has been that without a clear message being by all those concerned about child welfare, including Government, then levels of child abuse will not reduce. (Parent / Relative)

My own personal experience is that there is much more vigilance, and the LA are quick to act. As a person in the process of adopting a child via the LA, I am fearful at times of any marks, bruises etc which result from play activities and would be considered normal in a four year old. (Charity/Voluntary organisation)

It is unclear whether the majority of practitioners in the children's workforce are in fact aware of the implications of s.58 since no public awareness campaign followed its enforcement. (Charity/Voluntary organisation)

It is not possible to assess this from published evidence because the government does not accord the monitoring of violence against children the

same priority as monitoring violence against adults. There is no routine monitoring of children's experience of physical violence comparable to the British Crime Survey data (for over-16s), and it is not possible to interrogate national data to discover the number of prosecutions for common assault and battery where the victim is younger than 18 because this is not available. (Charity/Voluntary organisation)

It is . . . too early to make a full assessment of the impact of s58 on the practice of those working with children and families in considering incidents involving an alleged assault by a parent upon a child. Given that the new law took effect only 30 months ago, it is still in its infancy and empirical evidence is hard to come by. However, anecdotal evidence suggests that s58 is being used by professionals who are ideologically opposed to smacking as a means of intimidating parents and placing pressure on them to cease what they have found to be a necessary and effective way of correcting their children's behaviour. It has certainly heightened the climate of fear among parents with the result that many parents are more reluctant to speak openly about the positive benefits of smacking and are more likely to conceal their views and practice when asked. (Charity/Voluntary organisation)

### **3 To what extent have the changes to the law deterred parents from using unacceptable levels of physical punishment in the upbringing of children?**

I am becoming increasingly aware that normal loving parents are afraid to smack their children in case they leave a red mark that is spotted by a school PE teacher. Instead of smacking a child, they now invent tortuous ways of applying discipline and coercion that are non-physical. For example, I recently heard how a child refused to eat its meal. The child had various privileges withdrawn etc. with the result that the punishment went on over a 48 hour period. The child was distraught for many hours towards the end of the period. At no point was the child smacked. However, I believe that a simple (but firm) smack would have been much kinder to the child because the meal would have been eaten straightaway, the pain would have subsided in seconds or minutes, and the whole episode would have been over inside 10 minutes. (Individual)

Still do not understand why it is dangerous to hit children i.e. issues of self esteem and identity as well as physical safety... (Local Authority)

My experience is that the change has thoroughly confused both parents, professionals and volunteers working with children. I undertake around 20 child protection training sessions a year with an average of 29 participants and I get questions about this at every session. I also undertake some training for the [an organisation] with professional audiences, and they cannot understand why the UK has not adopted the prohibition on corporal



punishment advocated by child care organizations and international bodies.  
(Charity/Voluntary organisation)

In my experience from working with children and families I have not noticed any difference to the numbers of children being physically punished / abused by their parents. Parents generally adopt the view that they have the right to hit and smack in order to control behaviour. Although they are shown non physical means of parenting, parents often see it as their right to smack.  
(Local Authority)

The parents are generally uneducated in what level of chastisement they can use. (Police/Legal Professional)

I think that the more robust physical parenting has been restricted and I have seen a change in attitude in how parents explain physical chastisement, it is generally apologetic and a realisation that it was not the best way.  
(Medical/Healthcare Professional)

I do not believe that those who would use "inappropriate" punishments before section 58 will be deterred by the greater specificity of section 58. Parents inclined to carry out serious assaults on their children will not be restrained in this way. The effect of section 58 is rather to create a climate of fear for those parents who use physical discipline in a responsible and non-harming way.  
(Parent / Relative)

Knowing that the law has changed makes parents think more about their actions with their children regarding discipline (Parent / Relative)

Section 58 sends a dangerous message about the acceptability of violence against children. The only credible way to clarify the law is to give children equal protection from assault. Parents still do not see that hitting children is as unacceptable as hitting anyone else. Section 58 undermines the promotion of positive non-violent discipline. Some parents do not make the link between equality and human rights and that equal protection is an obligation not an option. (Medical/Healthcare Professional)

I think it has left parents more confused than ever. Everyone I speak to seems to have a different take on what the law means, but none of them view it as helpful. I am deeply disappointed to watch the display of verbal and mental gymnastics that representatives of the Government go through in a vain attempt to justify children being hit by bigger people. Why on Earth can't they do the one fair, humane and sensible thing that would make it quite clear where we all stand - that is, give children the same protection against assault as adults. No argument, however tortuous, can defend a position where the weakest, smallest and most vulnerable members of society have the least protection against being hit. (Parent / Relative)

I doubt there has been any change as a direct result of Section 58. Nit-picking about how much is too much is irrelevant. What is needed is education campaigns, backed by government recommendations (Medical/Healthcare

Professional)

I struggle to respond to this question as I regard all physical "disciplining" of children as unacceptable. I believe changes to the law have had minimal impact. In fact, it further legitimised what amounts to assault on children of a certain age. We must move towards a position where children have equal protection under the law, as is the case in countries such as Sweden, Finland and Norway etc. The introduction of legislation was accompanied by a public education campaign to make parents aware of positive, effective methods of raising children without resorting to physical violence. Hitting adults is wrong and prohibited under the law; this should be the case when it comes to children. This is not the complicated or controversial issue that the government likes to make it. (Charity/Voluntary organisation)

Parents who are genuinely physically abusive to children (i.e. use are violent as a result of anger/temper) appear to continue with that, as they have little regard for the law. This can be seen from people's interaction with their children on the streets. (Parent / Relative)

that once punishment is legitimated there is a danger that it will be overdone; that fear of punishment is liable to make people tell lies and deny what they did, like the little boy, or try to run away, like the father, instead of taking responsibility for their actions; and that the fear of overreaction by the state can make people, like the wife, think twice about reporting wrongdoing. (Charity/Voluntary organisation)

May have done to some degree. However, it remains the case that adults (some adults, that is) are reinforced in their view that it is acceptable to hit children (Medical/Healthcare Professional)

There have been changes in public and observable behaviour of both parents and carers. This does not mean that unacceptable levels of physical punishment are not being delivered in private. However, by removing this from the public domain awareness is reinforced that physical punishment in this country is not acceptable. My evidence is that before the legislation it was common to observe children being physically punished by parents in public places such as supermarkets, school playgrounds and parks. This has changed since the legislation. (Teacher)

I'm not sure that they have. Genuinely abusive parents in my experience are very good at covering their tracks. It is honest and loving parents who are adversely affected by this measure and would be by a further alteration of the law in the way proposed. (Teacher)

From my observation of families the changes to the law have in fact had the effect of deterring responsible and parents from using acceptable levels of physical punishment. I wonder whether they have had any effect on those who would use unacceptable levels. (Parent / Relative)

What's an acceptable level of violence in bringing up children? If my ex

partner slapped me for apparently wrong behaviour it would never have been seen as acceptable, but if he had slapped my daughter (which he never did) it would be seen as OK. I don't think there is any acceptable level of violence in bringing up children. In my neighbourhood, what is seen as acceptable punishment varies widely from family to family. (Parent / Relative)

I suspect that parents who are going to apply excessive physical punishment will not be deterred by any legislation. In my profession I see the results of this and know that no amount of laws passed will stop this from happening. (Teacher)

I don't think it has deterred because unacceptable levels of physical punishment were already illegal. Parents are scared to use or own up to using reasonable physical punishment to correct and train their children because of the law and the media. I have heard parents say that they think it is already illegal. (Parent / Relative)

Acceptable to whom and on what grounds? As parents, unless they are in the habit of reading the text of laws with understanding. Are likely to build their information from others. The existence of clause 58 and its contents has been misrepresented in the media and by professionals. It comes into a situation in which there is already a climate of fear in which some parents, to my personal knowledge, have restrained themselves from proper and affectionate physical contact with their children, intensifying that climate of fear. (Parent / Relative)

Section 58 has not encouraged parents to adopt non-physical positive methods of discipline. The major message of the changes was that following substantial governmental consideration parents did have the "right" to hit their children, and that this was an acceptable thing. In fact, the very wording of the question suggests that there are "acceptable" levels of physical punishment, a concept which contradicts to the Governments statement that it does not "condone" physical punishment. Such acceptance of actions (which are considered unacceptable when committed on adults) perpetuates the lack of respect for children as people and rights holders – status which the government has previously committed to by signing the UN Convention on the Rights of the Child. Those parents who were aware of changes, which were probably few, would have received the message put across in all of the media, which was in the main simply: "carry on smacking". It is conceivable that the message that leaving a mark on your child was officially not acceptable may have filtered through, which may have encouraged parents who are committed to physical punishment to adopt new potentially very serious methods, such as shaking or hitting around the head – both of which have been described to me by callers to [my organisation]. The "carry on smacking" message carries additional dangerous weight given the escalatory nature of physical abuse. Most serious abuse is administered in the context of punishment or control – and the objective criteria of "reasonability" is determined only by the parent, the only right-holding participant in the action. (Charity/Voluntary organisation)

The law has had a reverse effect in as such that law abiding parents have had

unnecessary social services involvement in their families. (Parent / Relative)

Members advised that they had not noticed any change in the last 3 years. Indeed many questioned whether parents were aware of a change in the law and advised that many parents currently perceive hitting their child to be acceptable behaviour. (Medical/Healthcare Professional)

Not at all. As I believe that the law, prior to section 58, was clear about this. It has never been acceptable to physically abuse a child. If anything section 58 has a detrimental effect on good parenting and potentially caused more work for social services who have to respond more acutely to any 'signs of physical chastisement' even if this is delivered reasonably and through love. (Faith group)

It has not. Children have the same fundamental human right as adults to respect for their physical integrity and human dignity, and to equal protection under the law. This requires the complete removal of the "reasonable punishment" defence to give children equal protection. Fulfilling this right should not be open to consultation. The UK should move quickly to satisfy its obligations under United Nations and Council of Europe human rights instruments. Section 58 cannot deter because the major message of the change, including media coverage of it, has been to reaffirm parents' "right" to hit their children. Physical punishment tends to escalate; almost all physical abuse of children is administered in a context of punishment or control – is physical punishment. Section 58 dangerously encourages parents committed to physical punishment to use forms of it which, although highly dangerous, do not leave marks (e.g. shaking, blows to the head, etc.). Only just and safe and common sense legal solution is complete removal of the defence to fulfil children's right to equal protection. The Government has not commissioned accurate prevalence studies involving detailed interviews with parents and children since 1995, so there are no figures to compare with anyway. The question, like section 58, suggests there are "acceptable" levels which contradicts the Government's statement that it does not "condone" physical punishment by parents. The only solution, consistent with the Government's policy of not condoning, is complete removal of the "reasonable punishment" defence to fulfil children's right to equal protection. (Medical/Healthcare Professional)

The answer to this question, in part, may well lie in figures available to the Government in relation to prosecutions of parents when they use force that is illegal. (Charity/Voluntary organisation)

Most parents are confused about the law. The only deterrent to parents using violence to discipline their children is by sending a clear message with no fuzzy areas that any form of physical punishment is unlawful. (Parent / Relative)

What is acceptable physical punishment? I have changed my mind - and practise with children and their punishment. I do not think physical punishment is acceptable now. I smacked my own children, but was it out of frustration

and anger or righteous retribution? Other ways MUST be found, and have been for my grandchildren. (Parent / Relative)

Many parents have always believed they have the right to smack their children. This has not been altered by the introduction of this legislation, but it does reaffirm their belief. The introduction has led to some parents citing they are acting lawfully, when they have blatantly acted above what is generally considered appropriate. (Police/Legal Professional)

The new law has not added a deterrent to unacceptable physical punishment because that was already against the law. Its effect has been to make parents afraid of using any physical correction which contributes to undermining parental authority and consequent less restrained behaviour. There is plenty of evidence that such behaviour is undermining society. (Parent / Relative)

This question assumes that the law will have had no harmful effects. In our experience many parents are now nervous and fearful of properly using wise physical discipline. This is tending to lead to wilful, disobedient children, continuing the trend of recent decades towards self-focussed, anti-social attitudes leading towards breakdown of society. Many caring parents seek to train their children by well established methods of loving, firm discipline. Their families are now at increased risk of the trauma of intrusive investigations by social services etc. The concept of actual bodily harm is viewed in isolation from the overall love and care of family life. Children can thus be subjected to emotional and psychological damage far in excess of a mild bruise. (Parent / Relative)

This question presupposes acceptable levels of physical punishment which I would refute. The current section 58 appears in breach of the European Social Charter. The European Committee of Social Rights has concluded that "since there is no prohibition in legislation of all corporal punishment in the home, the situation is not in conformity with Article 17". Levels of assault witnessed in public places (e.g. supermarkets) seem to indicate little change, and should create concern about private acts. (Faith group)

Despite our extensive experience of working directly with children, young people and families, [my organisation] has no evidence that the changes in the law have deterred parents from using unacceptable levels of physical punishment in the upbringing of children. Conversely, our experience is that the level of awareness is low and the implications ill understood. It would appear that Section 58 has encouraged some parents committed to physical punishment to use forms of it which, although highly dangerous, do not leave marks. We also know that physical punishment tends to escalate. The only safe, legal solution is the complete removal of the 'reasonable punishment' defence to fulfil children's right to equal protection. (Charity/Voluntary organisation)

Some parents still view it is their right to correct a child if he is wrong and that can be by way of smacking. It is a cultural issue with some families from another country who believe in smacking their children and with the use of

something. (Police/Legal Professional)

Under section 58 a loving parent could be charged with actual bodily harm, and thus be deprived of the defence of reasonable chastisement when the parent has, in fact, acted reasonably. (Parent / Relative)

Any level of physical punishment is as unacceptable in relation to children as it is to adults. The present situation is unclear, and works against parents or professionals working together to develop more positive strategies. An analogy might be with the smoking ban, which has been effective in preventing harmful effects as it has been widely accepted as desirable following extensive publicity and debate. (Parent / Relative)

Not at all. The incidents I have witnessed have been over a number of years but include some which occurred after the changes to the law. I haven't seen any difference in the way parents administer physical punishment and haven't seen any evidence that it actually works as a responsible means of disciplining a child. Most parents I know don't know anything about the law. (Parent / Relative)

Some parents seem to misunderstand the changes in the law, believing that they are now forbidden to hit their children - Good! My children and their friends do not hit their children on principle, and have established loving and respectful relationships, using various systems promoting positive discipline. (Parent / Relative)

I think the confusion has not actually deterred parents. Advice needs to be given on non violent alternatives to discipline and good parenting skills. The idea of 'it didn't do me any harm' and destructive entitlement are strengthened through section 58. (Faith group)

I believe it has had no affect whatsoever on deterring parents from using unacceptable levels of physical punishment. I have yet to meet a parent who knows what Section 58 refers to. I am quite certain that any parent, who saw nothing wrong in physically abusing a child previously, would not change their attitude simply because of this change in the law. It appears to me that of the absence of a defence of reasonable chastisement in cases of ABH has made it harder for parents to exercise appropriate levels of physical punishment which every child will need at times. My own children are now past the age where physical discipline is appropriate, but I am convinced that physical punishment has been necessary in a few cases where their behaviour was unacceptable. Physical punishment is bound to be required at times if a child is to learn self control. (Parent / Relative)

I think if people want to abuse their children they will because I personally feel the law allows them to do so we need to give children extra protection as they are dependant needy and deserve to grow up free from fear of abuse (Parent / Relative)

I object to the expression "unacceptable levels of physical punishment". There

are no acceptable levels. As child, I was myself a victim of continual violent assaults from a father, a senior civil servant, who viewed himself as a legitimate enforcer of his children's sense of duty. He died this year at the age of 92, unmourned by his four children, but regarded in his community as a pillar of respectability. The main emphasis of the media response to the 2004 Act, both in the immediate aftermath and subsequently, has been on parents' and carers' "right to punish". From the point of view of its attempt to influence the style of parental discipline, I am not aware of any reputable survey evidence that the 2004 Act has had a discernible positive effect. (Parent / Relative)

Surveys to canvas wider public opinion have indicated support for the right of parents to practice physical chastisement. 88 % of respondents to a DOH survey agreed that it is sometimes necessary to smack a naughty child, while only 8 % disagreed; 85% agreed that parents should be allowed by law to smack a naughty child who is over 5 years old with 9% disagreeing; 4% of respondents said that parents should be allowed to use an implement such as a stick to punish a child of 5 years and 7% for a child of 7 years. Interestingly while most therefore agreed with physical punishment, nearly all respondents considered punishment that leaves a red mark or bruising to be unreasonable (96% and 99% respectively) (Department of Health, Annex A: The Physical Punishment of Children: A consultation, 1998). Research has indicated that 75% of children in a sample of socially diverse British families had been hit when they were less than 1 year old and 88% of all severe punishment involved hitting (Smith, 1995, Nobes and Smith 1997). Recent findings indicate that boys are more likely to be smacked than girls, and children, including pre-school aged children rated as difficult by their parents are also much more likely to be physically punished than other children. Most conflict between parents and their children takes place on weekdays (62%) after school or early evening, at home (87%) and is preceded by perceptions of disobedient or demanding behaviour by the child (Ghate et al 2003). The proponents of physical chastisement all agree that punishments should be undertaken in a 'calm' and 'loving' manner and not delivered in a moment of anger or through loss of control. Presumably it is thought that this will lessen the risk of physical injury. Research findings, however reveal that this is not usually the case and indicate that children are often hit in response to a child's actions and when parents are angry (Graziano, 1996). The nature of the response at times leading children to suffer injury as a secondary consequence of punishment for example when a small child loses his balance while being hit and is injured by a fall. (Elliman and Lynch 2000). This research suggests that the majority of parents do not believe that physical punishment that results in injury is acceptable however those that do hit their children often do so in anger and as a result are more likely to inflict injury. The change to the law has probably gone unnoticed by most parents. Physical punishment is legal and parents do not generally wish their children harm, section 58 can not act as a deterrent when considered in this context. (Medical/Healthcare Professional)

The change in the Law adds to the pressure that parents are already feeling. It can easily be interpreted as the State trying to undermine Parental

responsibility to raise children in the best possible way. This should include sensible discipline. Lack of discipline among youths of today is a significant contributor to the lack of respect shown to parents & elders. The UK has just been declared to have the highest rate of delinquents in Europe. Pressure on parents not to discipline runs contrary to common sense. (Parent / Relative)

[My organisation] and other professional organisations working on child protection, all physical punishment is unacceptable. Regrettably the relevant law, now section 58, does not allow health visitors, school nurses and other community practitioners to deliver a straightforward message to parents and other carers: that hitting children is as unlawful as hitting anyone else, within the family and elsewhere. Section 58 and the accompanying change in the Charging Standard for Offences against the Person have added to confusion in this area, for families and for those working with them. The only clear message it has provided is that "smacking" is still lawful. For this reason, section 58 cannot deter physical punishment, and as is well known in the research literature, physical punishment, because of its ineffectiveness, tends to escalate. We are also concerned that some parents may have picked up from the media that while smacking remains lawful, they must be careful not to "mark" their children. This could actually lead to more dangerous forms of physical punishment – shaking, hitting round the head and so on. (Medical/Healthcare Professional)

Evidence base being that before the legislation it was far more common to observe children being physically punished by their parents in public places such as supermarkets, school playgrounds and parks. This has changed since the legislation although occurrence is variable, more chastisement still being observed in areas of higher social deprivation- greater parental stress. Whilst still relatively early days where Sure Start has effectively engaged with the community they would appear to be making a difference. (Charity/Voluntary organisation)

[My organisation] would not agree that there are 'acceptable' levels of physical punishment for use on children. We are not aware of any recent surveys on the use of implements by parents in punishing children; anecdotal evidence from paediatricians shows that implements are still being used. We consider that there is a seamless transition from using 'mild' physical punishment to 'severe' physical punishment and it is illogical to attempt to separate them out. [My organisation] would like to see legislation which places all physical punishment of children as being unacceptable. (Medical/Healthcare Professional)

Unacceptable levels of physical punishment were already outlawed before. The new law has increased fear and uncertainty among parents. Many do not properly understand what is allowed and are afraid of being criminalised for using reasonable discipline. Parents sometimes say, "you are not allowed to smack your children now". This, in turn, will mean that appropriate discipline will not be applied in some cases to the detriment of the behaviour of their children. (Parent / Relative)



Section 58 cannot deter parents from using any “levels” of physical punishment; the message Section 58 conveys is that parents have a “right” to smack/hit their children. Because physical punishment is ineffective it tends to escalate. The reference in the question to “levels” of physical punishment suggests there are “acceptable” levels of physical punishment of children. This is at odds with the Government’s policy of not condoning physical punishment. The wellbeing of children is connected to their physical existence; children’s right to physical integrity is fundamental to their health and well-being. Inflicting pain on children, in the name of discipline, however “light”, can have no positive value. The only solution consistent with Government policy of not condoning physical punishment is complete removal of the defence. In 2006-7, Childline counselled 14,561 children about physical abuse. 88 per cent of these children had been assaulted by a family member (33% by mothers, 29% by fathers and 11% by both parents). Sufficient data was supplied by 5,262 of the children to record that of these callers, 52% mentioned being hit with an object, 24% experienced “wounding” and 45% being bruised). (Charity/Voluntary organisation)

Section 58 does not deter parents from hitting their children but if anything just confirms that physical punishment is acceptable (as long as marks are not left). As no research has been carried out since 1995 it is difficult to see the impact it has had on the public. From personal experience I can see it has had none. Section 58 claims not to condone punishment but surely this can only be done by making it illegal to hurt your child in any shape or form. The media has only enforced the theory that physical punishment is legally acceptable. But certain programmes such as Supernanny demonstrate that physical punishment is not required when disciplining your children and there are numerous ways in which parents can do this. (Social Worker)

In our experience, it has not deterred parents in any way. Before the law was changed, the parent whose child was at no risk of abuse felt there was no law at all, whereas the situation now is that it feels as though the government has said it is acceptable; it has in effect reassured parents that they can hit their children. The law also perpetuates a dangerous notion that there is a clear distinction between hitting and injuring a child, despite the fact that the majority of physical punishment occurs when parents are stressed and/or angry and not fully in control of what they do. The fact that certain forms of punishment are acceptable undermines the government’s Every Child Matters emphasis on the need for more early intervention and prevention work with children and families. (Charity/Voluntary organisation)

The question itself implies there are acceptable levels of physical punishment. We strongly dispute this and if a reflection of Departmental policy, it also appears to contradict recent Ministerial statements that the Government does not condone physical punishment by parents. (Charity/Voluntary organisation)

**4 To what extent have the changes to the law stimulated local agencies to help parents in knowing how to establish effective boundaries for their children?**

Could do better with regard to supporting more socially excluded families who do not easily access mainstream services...in family support... (Local Authority)

In my experience this local authority has always provided a service to parents in managing their children's behaviour. Specialist services are available specifically for this situation. Most of the newer services are via the government Respect agenda (Local Authority)

It has helped us in that we have a clear boundary that is enforceable in law. (Medical/Healthcare Professional)

Have not received any advice as a parent from local agencies. This may be because I haven't asked but would have thought more effort would have been made to promote awareness of the changes at a local level (Parent / Relative)

There isn't clarity, regarding what is common assault as opposed to "reasonable chastisement" and therefore is not helpful when agencies are working with families. This invites variations in professional judgement and therefore confused parents / carers with regard to boundaries which are acceptable. The current law has the balance all wrong – no justification for the smallest / most fragile of our citizens having less protection from assault than the rest of us take for granted. Section 58 creates parental confusion, professional uncertainty, legal ambiguity and policy inconsistency. (Medical/Healthcare Professional)

Not at all. I am not aware of a single attempt from child care agencies to use this law in the way described. (Parent / Relative)

These legal changes are irrelevant - even damaging - to efforts to educate parents in positive discipline techniques (Medical/Healthcare Professional)

I have had no guidance, but I hail from a middle class background and I think that the agencies tend to focus on working class families. Clearly they (wrongly) assume that child abuse only occurs in the less advantaged communities. (Parent / Relative)

The loophole in section 58 has made it harder to debate and demonstrate what is reasonable in terms of physical violence against children. Our charity has noticed a marked decline in the promotion of non-violent measures against children as Section 58 has not given additional confidence in authorities in this area. (Charity/Voluntary organisation)

The law stimulated debate and efforts but the lack of a clear legal sanction against physical assault of a child has hindered the professionals, especially with clients who need a more direct approach and cannot cope with the

subtleties of "reasonable". (Parent / Relative)

This information is included in 'safe parenting programmes' delivered by agencies such as NSPCC and social services departments. (Teacher)

Some local areas have produced leaflets on positive parenting techniques and increased access to parenting skills advice and courses for parents. I am aware of this though my membership of my local ACPC a couple of years ago before LCSB came into being. (Medical/Healthcare Professional)

How can local agencies advise on what is 'reasonable punishment', far better to completely ban physical punishment and then everyone is completely clear over what behaviour is acceptable. (Parent / Relative)

No response. No evidence. (Teacher)

Most parents don't have 'agencies' involved in their lives with the exception of education. I guess my neighbours who have social workers may have been given some information. The rest of us parents have always been left to get on with it until something goes wrong. (Parent / Relative)

Local agencies are ahead of the government and current law in providing good practice. If local agencies were to promote section 58 as it now stands I think we could see parents thinking it is even more acceptable to use physical forms of punishment, rather than diminish it. (Local Authority)

It is becoming clear that violence is no route to stability, whether within the family or more widely in society. We are calling for a prohibition of violence against children as much for its educational effect as for anything: children whose parents resort to violence will grow up believing that violence solves problems. It doesn't. If it is inappropriate in school, it should be so everywhere. (Charity/Voluntary organisation)

I have noticed that many local agencies are ideologically opposed to all forms of physical correction, and I think they use the law to further intimidate loving parents who happen to have different opinions, yet who never want harm for their children. (Parent / Relative)

I know that church groups are trying to encourage parenting courses in their communities. The Churches Network for Non-Violence has produced an excellent pack and CD. (Teacher)

Some parents have a misconception that all smacking is illegal. This misunderstanding has been acquired through over zealous propaganda from the anti smacking brigade. As a serving primary school head teacher, I see this as one reason for the increase in parents describing a serious decline in their children's behaviour. (Parent / Relative)

The majority of members call for an increase in investment for programmes to enable all parents to develop positive parenting skills. (Medical/Healthcare)

Professional)

As many local agencies are opposed to any form of physical correction, section 58 has enabled employees of such agencies to intimidate parents and parents are the best to judge if reasonable physical punishment is necessary. As such section 58 has restricted some employees of these agencies, who against their belief and experience, are prevented from helping parents to use smacking in an appropriate way to correct their children. (Faith group)

Two specific examples (of many) I can offer are: 1. a two year old was smacked hard by a parent at clinic, witnessed by other parents. This child was residing at home subject to an Interim Care Order & an extremely tight CP plan. Other parents who witnessed the event expressed their shock to the Health Visitor and felt this was an unreasonable chastisement. Work was undertaken with father (a prolific offender) and mother to educate them regarding appropriate alternative strategies. Father responded that she was his daughter, if he felt it appropriate to smack her he would do so and there was nothing we could do about it, as it was not against the law. I had to accept it was not against the law, and whilst the incident was included in my court statement as a risk indicator, s58 did not serve to protect the child in this instance, rather reaffirmed the acceptability to physically chastise a child. 2. A child attended school with a bruise to the cheek bone after being hit by mother. The child is on the CPR and work is ongoing. Mother's defence was 'but it's not against the law. He wouldn't listen so I had to do something. 'We strive to educate parents on establishing acceptable boundaries but often when working with marginalised families, they view the law as their 'right' and therefore it is 'their right' to smack a child if they wish, irrespective of other strategies that may be offered. Often it is the easier option as it takes no perseverance. (Social Worker)

I would not imagine that Section 58 can have helped Local Agencies to help parents to establish effective boundaries for their children; it still allows parents right to hit, to inflict physical pain and shock on any child, of any age or size. (Parent / Relative)

Not at all. In fact it has made it much harder for parents to establish effective boundaries for their children. Many professionals in this area have a prior commitment to a total ban on smacking and use the changes already made to pursue their prejudice and enforce it illegally on parents. It has given them virtually carte blanche to hound any parent who administers corporal punishment. Parents are therefore afraid to even exercise their legal rights to discipline their children. This is none other than state bullying. (Parent / Relative)

My personal experience of children's agencies is that they have no rational, objective understanding of how effective boundaries are established for children. A combination of almost fanatical ideology, a total lack of scientific or mathematical training and a fear of litigation, presumably by the children of the future, means that many such agencies are simply incapable of operating in a sensible or helpful way. While this might seem extreme it is our personal

experience having, as a family, come under social service scrutiny during an attempted adoption. Our children were described as 'delightful and very well adjusted' and yet our parenting techniques were unacceptable. The reason, of course, being that smacking was in our parenting toolbox. In spite of having broken now laws whatsoever, we were threatened with social service intervention. Section 58 will not stimulate local agencies in this way. What they need is a law requiring them to undertake suitable training to be able to understand the studies behind 'best practice.' (Parent / Relative)

[My organisation] has extensive experience in working with vulnerable families and parents in particular through parenting programmes. Our experience is that parents in general wish to have alternative strategies to the use of violence in enabling them to parent their children and readily accept using the effective alternatives available once these have been explained and learned. Making parenting skills and support readily and widely available as an "automatic" part of provision will enhance the ability of parents to parent their children positively and healthily and pay dividends across the ECM outcomes. (Charity/Voluntary organisation)

The evidence for smacking is that administered in the context of a loving relationship, it can be helpful for establishing boundaries and behavioural guidelines for young children. In Sweden where smacking was banned in 1979 there has been a sixfold increase in violence by children on children. In one meta-analysis published in 2005 the conclusion was that 'effect sizes significantly favoured conditional spanking over 10 of 13 alternative disciplinary tactics for reducing child non-compliance or antisocial behaviour.' Larzelere RE, Kuhn BR Comparing Child Outcomes of Physical Punishment and Alternative Disciplinary Tactics: A Meta-Analysis Clinical Child and Family Psychology Review. 2005; 8:1-37. Smacking has a place (albeit a relatively small one) in the setting of guidelines to most children. On one occasion I suggested loving smacking to a couple with an out of control 3 year old who had been excluded from a play group for biting and hitting other children. It was not long before I received an intimidating phone call from a social worker demanding an explanation. I have had conversations with Health Visitors who are too inhibited to recommend smacking to parents. There is an atmosphere of fear and intimidation which stifles sensible discussion of the positive benefits of smacking with parents. (Medical/Healthcare Professional)

Our practice has always been to encourage parents to seek other alternatives, rather than hitting. We continue with this, explaining how one would not hit adults and the negative lessons that occur when children have physical punishment inflicted on them. (Charity/Voluntary organisation)

It provides an information tool, as well as providing some motivation. However, all caring professionals who work with children and families were already well-motivated without the law in attempting to achieve this aim. (Other)

Again, how can local agencies give a clear message to parents when the law is not clear, lots of grey areas. More parenting courses are needed to

encourage parents to go on, not enough of them running especially for dads. Teaching different techniques can not be done effectively in an hour. Parenting courses should be more available. (Parent / Relative)

It has not made any difference. We have always worked hard with groups and individuals to promote positive parenting and always will. (Other)

I think government agencies have backed away from the issue fearing litigation against them if their advice is taken incorrectly. There has been a distinct lack of guidance for parents on this issue - and that's the view of many parents I work with. Many organisations still promote non-physical discipline but this is undermined by the current legal state, the government requires to provide a decisive action one way or the other (Medical/Healthcare Professional)

There is an increased emphasis on working with the family to resolve poor parenting. Parenting classes are available to offer parents other ways of disciplining children. Media coverage of such incidents/issues, such as 'Supernanny' have also assisted in providing parents with alternative means of child discipline. (Police/Legal Professional)

It has encouraged some such agencies to enforce their ideological opposition to any moderate use of smacking as a form of discipline. It inhibits others from recommending smacking to parents as an appropriate way to correct their children. (Parent / Relative)

Changes in the law under the Children Act 2004 have enabled local agency officials who are ideologically committed to banning all forms of physical correction to intimidate parents who believe that smacking is an essential part of overall loving, caring family life. The increasing climate of fear which surrounds the subject of physical discipline has its effect on the professionals themselves. In the face of peer censure and the prospect of being 'shamed' for being prepared to admit the possibility that proper physical correction could be beneficial, it is little wonder that professionals who know better are silent and prefer to 'go with the flow'. Few local agency professionals would now dare to advise parents that appropriate use of physical discipline has a valid place. The evidence for this fear is clear and widespread in local agencies throughout the UK. Thus, the changes in the law have helped to stifle balanced advice to parents and force agencies to advocate recently devised, unproven methods of child-care. (Parent / Relative)

Local agencies never suggest physical punishment of children to parents. How could they without adding so many caveats about not leaving more than transient marks etc? Thus parents are now deprived of proper advice on discipline of children and hindered rather than helped in the vital role of rearing the next generation of responsible citizens. (Parent / Relative)

Because most agencies now start with the presumption that smacking is wrong, a significant means of discipline is removed. Of course, other means need to be more commonly used and smacking is a failure if it goes on

having to be used. I believe that most authorities do not understand and therefore help parents in the proper use of a smack. I cannot remember having to smack my children after the age of, say, four, and they are now all good, responsible and contributing members of society with well disciplined children of their own. Allied to this is the failure to distinguish between a reasonable smack and a "beating". Anything which arises out of parental rage or frustration is probably inappropriate, but a sharp smack, usually followed a little later by a warm cuddle, is appropriate, and social workers are ideologically opposed to this in a blanket kind of way. (Charity/Voluntary organisation)

I am not aware of any work of this type stimulated by the law change. Work continues to support parents through parenting programmes. These programmes all foster alternative, more constructive methods of maintaining discipline and safety and would not contemplate condoning physical punishment. (Medical/Healthcare Professional)

Since the local agencies are staffed by people trained to be ideologically opposed to any form of physical correction, the change in the law in 2004 has enabled them to intimidate parents who use a moderate smack as a form of discipline. A friend of mine who smacked her 12 year old girl once recently, had the police turn up at her house with a member of Social Services. The child, who had thought that smacking was banned totally, had in a childish rage, telephoned the police. The mother was threatened with further action if this happened again, and told they had put her name on a special register. This family will not benefit from such intrusions. The mother is a single parent. If legal action were taken over a smack, there is the possibility that the children would be taken into care. The 12 year old would never want this to happen, and yet children are always being encouraged at school and elsewhere, to report their parents if they are smacked. This is totally UNreasonable behaviour, on the part of the heavy handed anti-smacking lobby. Good and reasonable families will be torn apart through any further legal intervention. Another incident gives further evidence; I was at a public family style event the other day when a friend of mine was approached by a little boy of about 5. The child indignantly said to my friend "I just got smacked!" My friend probably surprised him when he replied "Well you probably deserved it didn't you?". If the child had spoken to somebody intolerant of smacking, there may well have been intervention into that child's family and his parents threatened with legal action. Such is the fear generated among parents now that I know some will only discipline their children once they have closed the curtains! This should not be so. They are doing nothing more than administering a smack for an act of wilful disobedience, to a young child. They should not have to behave as if they are doing something heinous. We used to have a society that stood together in the careful watch over the behaviour of children. If a young lad was engaged in vandalism and caught by the local policeman, he would give him 'a clip round the ear' or some other insignificant smack, and take him home to his parents, who would then be expected to further physically discipline him. Nowadays, the case is....if the parent is caught smacking their child, the child will retort that he's 'not allowed to do that', which will be followed up by a visit from Social Services, backing

up the child. Parents have had their rights to train their children sensibly, taken away from them, and have been made to feel like lawbreakers if they lay a finger on them. Because of this climate of fear, even professionals who have proved the benefit of moderate physical correction with their own children, now find they dare not advocate its use to parents who are struggling with unruly children, for fear of reprisals for themselves. Many therefore have to impose a style of parenting which has no proven benefit to children. (Parent / Relative)

I know that SureStart is active locally and that parenting classes are offered. It does seem that advice on establishing boundaries seems straight forward with one child in a calm unhurried environment, but daily life for many parents involves the demands of several different children and adults in situations where there is not the luxury of long discussions. By removing the valid use of a mild "smack" from the parents' disciplinary tools this is making setting boundaries much harder. It does not help the child, particularly the younger ones, who thrive when they know what the boundaries are and are comfortable when parents are relaxed and controlled (Parent / Relative)

Any professional who knows the benefits of reasonable smacking hardly dare say to a parent, let alone in public. The law needs to make clear what is legal, irrespective of diktats from the EU. (Parent / Relative)

It is impossible for parenting support workers to use the law as it stands, since they are trained to help parents to use authority, not power. Physical restraint of children in danger is of course necessary and unlikely to be confused with punishment (though parents of toddlers are sometimes angry when they put themselves in danger) Protection must always come before punishment. (Medical/Healthcare Professional)

Our experience of working with more than 170,000 children, young people and their families across the UK has been that Section 58 has not helped with the development of effective discipline. On the contrary, in reaffirming parents' right to hit, it has tied the hands of agencies and undermined positive discussions and the promotion of positive discipline. (Charity/Voluntary organisation)

The confusion caused by Section 58 has left us struggling in our work with parents to help them see what is and isn't effective and respectful parenting. It also allows parents to convince them that hitting is acceptable and good 'because the government says so'. (Charity/Voluntary organisation)

Only money stimulates new services. To help parents with boundary setting and maintenance needs professional time and support. Children cannot wait for protection from adults, sadly. (Medical/Healthcare Professional)

How can any professional working with children find a form of words which will say that beating children is reasonable punishment? It is a human right not to be subjected to violence and so there is no acceptable way for professionals to say that a certain level of violence is OK but don't go above a certain point



(Parent / Relative)

Again, the insidious use of the word 'reasonable' means that it is impossible to create effective boundaries for parents, relying as it does on subjective judgements. Remove the grey area, make all physical punishment illegal, and local agencies will be able to do their job properly. (Teacher)

Section 58 undermines efforts to establish effective boundaries because it affirms parents' and others right to hit children, undermining child protection and the promotion of positive, non-violent discipline. It prevents those working with children and parents delivering a clear message. Local agencies are put in an impossible position, trying to encourage non-violent discipline in support of children's basic human rights when the law, through section 58 remains unclear and unjust. (Charity/Voluntary organisation)

By re-affirming parents' and others right to hit children, section 58 undermines child protection and the promotion of positive, non-violent discipline. It prevents those working with children and parents delivering a clear message. It could only make things worse if the Government issued lots of guidance on section 58, because it could only re-emphasise its unjust and dangerous message – that hitting children, unlike hitting anyone else, is lawful. (Parent / Relative)

The changes to the law have not helped. Child care professionals try and teach parents alternative ways of disciplining their children, establishing structures, routines, developing communication and play skills etc. But parents can still say that the government condones smacking. (Charity/Voluntary organisation)

We believe there is little evidence that local agencies are using Section 58 in instances where disabled children and young people are found to be being abused by their parents or others. (Charity/Voluntary organisation)

I think it prevents those working with children from giving a clear message. In the trainings I offer in the church we are clear that no one working with children may touch them or reprimand through touch. Further clarification attempts and guidance on section 58 will only fudge the issue for parents and carers further. (Faith group)

The then ACPC provided information for staff and published a statement in early 2006. Rather than being in direct response to the change in the law (although making reference to it), this was more to ensure that there was a consistent message given by staff of ACPC agencies to parents about positive parenting and the benefits of finding methods to respond to children and manage their behaviour without resorting to corporal punishment. This document is attached for information. (Local Authority)

I think the setting up of SureStart has been a very good idea but I think they should go beyond the age of 4 as smacking does not stop at 4 and neither does children's behaviour problems (Parent / Relative)

Health care professionals already had a key role in promoting the health, development and welfare of children by engaging with and supporting the family in parenting practices. It has been argued that because most parents smack as a last resort when they have lost control rather than as a planned, consistent strategy for discipline, changes to legislation that make hitting illegal are unlikely to be effective. This argument downplays the important role that professionals can take in influencing parental attitudes. They can inform parents about the stages of child development so that a child's drive for independence is seen as normative rather than as wilful defiance. Parents become most punitive when they feel powerless, so by helping parents to focus on preventing undesirable behaviours through more effective communication and by problem solving, parental competency and confidence can be increased. Parents can also be helped to reduce their stress at difficult times, to manage their anger and to prevent conflict. By strengthening parenting in this way, professionals can reduce the use of physical punishment and prevent its escalation. A positive parenting approach could be promoted from the moment a new baby is born. Straus (2000) has suggested a number of practical ways to educate the public in much the same way as they are advised about the dangers of cigarette smoking. These would include "never smack" posters and leaflets in maternity wards and other health and public places. While some have argued that parents must be taught to use alternative disciplinary strategies before being advised to stop smacking, it is observed that almost every parent can and does use additional skills in child management and these should be more positively encouraged. The most helpful means of effecting child health and welfare promoting strategies is to give a clear message that the use of any physical force with children is an inappropriate method of behaviour management. In order for this message to be effective it must be delivered at a national level through clear Government policies, at an organizational level through positional statements of professional bodies and at the individual practitioner level through the provision of health promotion and education to support changing parental attitudes. (Medical/Healthcare Professional)

Again, there is no way that section 58 can help with the promotion of positive, non-violent forms of discipline and child-rearing that are effective for families. On the contrary, it undermines the work of the many local agencies involved. We believe that the failure of Government to remove the "reasonable punishment" defence altogether paralyses a positive debate and the provision of support to parents, including those who are having difficulties with behaviour management. If Government does not change the law, it can be sure of the strong and vocal support of [My organisation] and hundreds of other organisations and projects working with and for families and children. (Medical/Healthcare Professional)

It is very hard to disentangle to what degree changes in the law have stimulated local agencies in supporting parents (re effective parenting including behaviour management, routines and boundaries) from a more holistic approach arising from Every Child Matters and the introduction of schemes such as Sure Start. Targeted programmes such as 'safe parenting

'delivered by agencies such as NSPCC address the above. Psychologists practice identifies particular issues related to parents who misuse drugs, substances and /or alcohol and injure children. A lack of adequate resources being identified in many areas to help parents address their misuse (Charity/Voluntary organisation)

There has been a real increase in Parenting Programmes available for parents however I do not think this can be attributed to the changes in the law. (Local Safeguarding Children's Board)

I would love to say a lot. Preventative strategies are clearly the way forward. When Finland banned smacking in the mid 1980's, health visitors were then given extra training and responsibility to work with parents about effective discipline methods. A lot of time and money went into this and 18 years on, statistics on youth crime show a significant drop. Health visitors are in increasingly short supply in Britain and I have heard somewhere that they are gradually being phased out. Research on child development shows that children respond far better to praise and rewards than being criticised or hit. (And adults for that matter) Star charts, trips to the park for good behaviour, ignoring negative behaviour, distraction etc are all effective methods of discipline and improve a child's self esteem and confidence. They trust and respect their parents and learn to internalise a moral code for the future. Children who are hit when their parents have had a bad day, are tired and do not know alternative options are going to become defiant of their parents the older they get. They are going to internalise the notion that violence gets results and negotiation is futile. These children then grow up to be the bullies in the playground and the carriers of knives on the street. I would like to devote more time to working with families in establishing effective boundaries but unfortunately statutory social work of today is so bureaucratic and based on timescales and performance indicators that I spend 80% of my time in the office doing paperwork. (Social Worker)

It certainly has not...Because our agency supports parents with learning disabilities (50% have their children removed/placed in care. Emerson, 2006) teaching parents on guidance & control, i.e. behaviour management is one of the most common interventions that we provide. Many are unaware of the law and use punitive and aggressive forms of punishment. Instead, we promote positive parenting and there is a multitude of research on the use of these alternative parenting discipline methods. Research substantiates that smacking children teaches aggression to children and only informs them that the parent is out of control or angry and this is an effective way to deal with people. Some other agencies use similar methods but can not necessarily enforce that parents do not use punitive methods. (Other (please specify)) I think it has made our work more difficult because the law appears to condone hitting children. I know of a family where their priest encouraged them to hit a child with a hairbrush, because 'hands are for loving not for hitting'. (Other)

Most charities working with children oppose physical punishment and therefore the changes do not have an impact as parents are encouraged to

use non violent methods of establishing boundaries. (Parent / Relative)

Comments: Instead of setting a standard of respect for children, Section 58 undermines their human dignity. It undermines positive non-violent discipline by allowing parents to 'legally' smack/hit their children. This in turn undermines the work of local agencies in their promotion of positive non-violent discipline and reduces the incentive of parents to learn more effective ways of parenting, without smacking. The opportunity for parents to teach their children to solve conflict without the use of force is also lost. A new survey (July 2007) by the Children Are Unbeatable! Alliance shows that more than three quarters (77 per cent) of parenting practitioners working in the Government's flagship sure start projects and children's centres believe that "banning smacking" would help them achieve their professional aims. Only 10 per cent say it would not help. The vast majority (92 per cent) of parenting practitioners responding to the survey think that the current law allowing common assault of children to be justified as "reasonable punishment" (section 58 of the Children Act 2004) is inconsistent with the promotion of positive parenting, one of their priority professional tasks. 82 per cent of parenting practitioners believe that section 58 hinders their work with children and families (20 per cent of this number say it hinders a lot). Only 1 per cent says it helps them. (Charity/Voluntary organisation)

Section 58 does not do as it was supposed to do - curb physical punishment. It has in fact done the opposite. The law needs to be changed so that hitting children is deemed as inappropriate and other methods of disciplining children is instilled. Having worked with parents who have been willing to try other methods of reprimanding their children such as 'star charts' it is clear to see the enjoyment they get out of using non-abusive techniques. They all believe that from learning what these new methods their relationships with their children have blossomed. (Social Worker)

I think this is the area in which there appears to have been little change. What seems to happen is that an allegation is made and all too quickly parents find themselves subject to child protection procedures. No one appears to work with families dealing with often very difficult behaviours unless there is a treat of a complaint (as in my case). (Charity/Voluntary organisation)

As a parent I am not aware of any help for parents from any local agency or otherwise in knowing how to establish effective boundaries for children. I am aware of a case where a parent went voluntarily to a local agency to ask for help with this issue and ended up as a CP case. It seems as though this is an upside down way of "helping" parents. I think cases like this make most parents too afraid to seek help from local authorities. (Parent / Relative)

We would argue that changes in the law have not made any contribution at all to helping local agencies to help parents in knowing how to establish effective boundaries for their children. On the contrary, parenting programmes used by local agencies never promote the use of physical punishment as this approach runs counter to the principles of good childcare practice. Most childcare workers therefore, will try to avoid discussions about what

constitutes 'reasonable chastisement' preferring to promote positive non-violent interventions. Furthermore, they are more likely to tackle issues of physical chastisement in terms of it being a loss of control on the part of an adult and conversely, help parents to manage their own anger in a constructive as opposed to a destructive way. 92% of parenting practitioners from 100 SureStart Centres and Children's Centres who took part in a recent questionnaire conducted by the Children are Unbeatable! Alliance believes that the current law on 'reasonable punishment' is inconsistent with the promotion of positive parenting. 82% of the respondents believe that section 58 hinders their work with children and families. Finally, 92% of those surveyed think that most parents are confused by the current law. (Social Worker)

To a large extent - more Parenting Skills group-work and individual family work by my organisation (Charity/Voluntary organisation)

The law fails to give professionals working with children and families a clear mandate for promoting positive parenting and for being clear that physical punishment can be harmful and is ineffective for achieving lasting discipline (Charity/Voluntary organisation)

## **5 In your experience have the changes to the law assisted those working with children and families to protect children and support parents?**

Somewhat....highlights discrepancies between UK and other European states thus indicating how much further we have to travel (Local Authority)

As I parent, section 58 has not helped me. I seek to use physical discipline in a responsible way; I see section 58 as being about creating a climate in which all physical discipline is made unacceptable. (Parent / Relative)

As a childminder I think the changes to the law have just confused the issue. We do not use corporal punishment when working nor do I as a parent so don't understand why any other parent would use it. (Parent / Relative)

There needs to be an end to adult justification of violence against children, whether accepted as 'tradition' or disguised as 'discipline'. It has not given enough 'firm ground' in challenging violence against children. Children's vulnerability and dependence on adults makes it imperative that they have more, not less protection from violence. The law does not go far enough in stressing that violence against children is justifiable. (Medical/Healthcare Professional)

That is, the law is confused and fundamentally unjust. (Parent / Relative)

I don't think it has made a huge difference to children, I all it has done is increase a climate of fear as a parent in a family situation where you try and

discipline children in a responsible and controlled manner. (Parent / Relative)

No - our charity, through our contact work with vulnerable parents and children via our contact centre has seen no discernable change in parents' attitudes. Physical violence against children seems to have been given credibility through section 58. (Charity/Voluntary organisations)

I strongly advocate that the law of protection needs to change and be the same for both adults and children in compliance with the United Nations and the Council of Europe human rights agreements. Why do we still teach our children by example to be bullies by using physical punishment? Are we really going to be the last nation in Europe to recognise a better way of rearing our children by banning smacking and using positive parenting instead? (Other)

As a parent I can't gauge what would be a reasonable level of hitting so I imagine that people working with parents also don't have a gauge of acceptable level of hitting. It seems very woolly and subjective! (Parent / Relative)

The changes have done nothing to improve child protection as they were already protected under previous law. The climate of fear encouraged by section 58 has failed to support parents and to help those working with children and families assist parents in the appropriate and effective use of physical correction. (Parent / Relative)

Yes, they have enabled us to be open and honest with families which is a very important issue for [my organisation]. (Charity/Voluntary organisations)

The ambiguity which persists in the law even after section 58 prevents those working with children and families to protect children and support parents. As stated in my answer to question 2, practitioners did not condone the use of physical punishment prior to section 58, but they were unable to explain to parents that it was unlawful, and that alternative methods must be used. This situation has changed in no way whatsoever. The perceived "right" to hit children prevents constructive discussion of positive parenting, and undermines efforts to change parental practice. In my voluntary work as a counsellor the lack of clarity in the law, which would be given by a total ban on smacking, continues to undermine my ability to give clear positive and empowering messages to victims of physical abuse. (Charity/Voluntary organisation)

No. I believe children are not any safer with the introduction of section 58 than they were before! In fact, as a parent, I feel under pressure especially when my children are misbehaving in public places. I know that even the threat of a smack can help to resolve the situation but because of this law I am reluctant to use or even threaten my disruptive child for fear of who might be listening. The result of which is my child is empowered to continue misbehaving, I am under more stress because of fear of what bystanders are thinking and the whole situation has the potential to erupt beyond our domestic problem. Under stress a disapproving head shake for someone can easily become an

argument because as a parent I am frightened to discipline my child. (Faith group)

I have worked with families who as outlined above continue to smack their children regardless as it is the easier option. The Government wants to stop anti-social behaviour but is in effect promoting it by promoting the message that physical chastisement is acceptable. I have spoken with children who have been smacked and it is often an upsetting experience for them. They often describe feelings of humiliation (when done in public) which can lead to low self esteem and anxiety issues, confusion (they get in trouble for hitting but it's OK for parents to hit them) and pain. Sadly, evidence suggests many of us parent our own children in the way we are parented so it is likely that these same children will smack their children. It is necessary to try to stop this cycle by sending a clear message that it is unacceptable. (Social Worker)

The changes have not assisted such workers. I am aware of some excellent workers in such agencies, who themselves apply reasonable chastisement to their own children, having to live with double standards in their family and professional lives. They cannot take an honest stand with their work colleagues for fear of reprisals with respect to their career prospects (Faith group)

It would be far better if smacking was banned. It is not appropriate in any form and for children at any age. There are better and more effective ways for parents to bring up their children. The current law gives the wrong message. (Other)

I'd suggest you substitute the words 'Women' or 'Downs syndrome person' or any other group of your choice instead of 'children' and you will see that there really is only one answer to these questions for those who believe children have a right to equal protection: by saying it's OK to hit children, which is what section 58 does, it undermines child protection as well as positive, non-violent discipline. (Parent / Relative)

There is greater emphasis on resolving the issues in a multi agency manner and not just looking at the situation from a 'black and white' perspective. Prior to the introduction of this legislation, most allegations that a parent had hit a child would become fully blown criminal investigations and section 47 investigations. Now there is an investigation (sometimes by a single agency) to establish the full facts before any criminal/section 47 investigation commences. This is a positive step, but one which needs to be treated with caution. If the relevant agencies do not have good working relationships and regularly feedback to one another, then some incidents get dealt with ineffectively. For example, a social worker is not trained as a police officer and what they may see as chastisement - may well be a crime. The converse is also true of course. (Police/Legal Professional)

No change. The governing legislative framework is regarded as Children Act 1989 and the local authority and partners continue to protect children under this legislative framework and within the procedural framework of the London

Child Protection procedures. (Local Safeguarding Children's Board)

We do not believe that section 58 could help, even with the production of detailed guidance. You cannot protect children in the context of an unjust and undermining legal framework. (Charity/Voluntary organisations)

The parents clearly know what they are allowed to do or not to do.  
(Police/Legal Professional)

The current situation remains confusing. Outlawing smacking would not only support children's rights to be the same protection from assault as adults, but would help those working with children and families to give an unequivocal message and enable them to protect children and support parents very straightforwardly. (Parent / Relative)

Having attended training with volunteers who work directly with children I was aware that people find the current situation confusing. It is my personal opinion that a simple ban on the use of physical punishment would allow volunteers to work more effectively with parents on using alternative ways to manage children's behaviour. (Parent / Relative)

Section 58 dangerously encourages parents committed to physical punishment to use forms of it which, although highly dangerous, do not leave marks (this would include shaking, blows to the head etc). The only just and safe and common sense legal solution is complete removal of the defence to fulfil children's right to equal protection. (Local Safeguarding Children's Board)

No, it has not assisted us. Section 58 undermines our promotion of positive discipline for those parents who know that they may continue to hit their children. We have to sit on the fence by not condoning the actions but wanting to maintain our contact with the parents in the hope that our advice will encourage them to change their habits. A stepfather came to us for support "My partner's son who is 12 has a problem controlling his temper and causes lots of damage to the home in the process. Unfortunately early in the relationship I did punish him by hitting him. Things have got to the point where we hate each other and though I keep control most of the time I still do lose my temper, but no longer hit him, just shout extremely loud and order him to his room." By allowing the use of reasonable force the relationship between this stepfather and his partner's son will become irreconcilable. A mother told us "I am having terrible discipline problems with my 8yr old son, who won't do anything he's told and is rude and answers back (just like a rebellious teenager!). It reached fever pitch last night and I smacked him which I've never done before. I have other children whom I've never had this problem with." This mother's position is similar; she needs clear guidance and alternative strategies so that she does not resort to violence with her son. (Charity/Voluntary organisation)

It is our view that the change in the law has perpetuated confusion about what is acceptable and what is not; confusion can only place children at more, not less risk. The fact that it is still legal to hit children makes the job of those



working with children and families so much harder in promoting safeguarding and positive parenting. What is needed is absolute clarity in the law that children have full legal protection. Until then parents can continue to say, "Mind your own business" when challenged about hurting their children and the message to children that they have no physical integrity will persist. Removing the defence of reasonable chastisement would provide an invaluable opportunity for a public awareness campaign about the importance of the child-parent relationship and the value of non-violent positive parenting and alternative strategies for setting boundaries for behaviour. Removing the defence of reasonable punishment would make it easier to communicate with parents about the harm caused by violence and the need to approach the guidance of their children in a more positive way. (Charity/Voluntary organisation)

Among staff there is greater clarity regarding thresholds for crime recording and lead agency for investigations. However, there is very varied understanding by parents and children about the legislation and reporting is believed to be very low in London compared to reality. Increased reporting of offences would help to provide a clearer picture of any impact of the legislation. (Police/Legal Professional)

Yes, for all the reasons previously mentioned. Childcare providers have historically felt that reporting concerns on (to Social Services for example) results in what is sometimes deemed to be heavy handed interference. With more parents more aware of what is and is not acceptable there are potentially going to be fewer grey areas when considering whether a child is likely to be a victim of abuse. However the Alliance would highlight the fact that the establishment of Local Safeguarding Boards has yet to make an impact on local providers. Our evidence suggests that information has not been forthcoming in all areas and training for providers is over subscribed and difficult to access. (Charity/Voluntary organisation)

It would seem, as a matter of common sense, that section 58 will have increased the mistrust that often already exists between social workers and families with whom they are working. If parents are aware that small injuries that may have arisen from legitimate discipline, could result in their child being 'taken away', because of the overreaction of a child protection worker, they will be even less cooperative with the local authority's genuine efforts to help their family. (Charity/Voluntary organisation)

Section 58 has not assisted those working with children and families; it undermines their work, both in seeking to effectively deter violence against children and to promote positive, non-violent relationships with children. (Charity/Voluntary organisation)

Section 58 makes professionals' jobs very difficult. If children are not marked, it is hard to take action to protect them. The complexity of child protection has thus increased, and children do not have the full protection of the law because it is unclear. Were the law to be changed to make it clear that parents can use no form of physical punishment, and then practitioners would be supported in

working with families at a very early stage to help them find other ways of disciplining their children? (Charity/Voluntary organisation)

The changes have done nothing to restore public confidence in those working in the area of child protection. Families fear approaching such agencies for help because they know they are likely to be anti-smacking. They fear being investigated for abuse simply for smacking their own children and so avoid contact with agencies that might be able to help them in other ways. (Faith group)

Children were already protected by the previous law. Section 58 has achieved nothing to increase a child's protection but has engendered fear among sensible and caring parents. (Parent / Relative)

A vast number of professionals working with children agree that the changes to the law do little to protect children from assault which would be unacceptable if against another adult. Over 200 organisations [...] have joined the Children Are Unbeatable! Alliance. This must go some way to showing that the professionals are not happy with the current state of the law. A recent survey shows that more than 92% of parenting practitioners think that most parents are confused (70%) or very confused (22%) by the current law allowing "reasonable punishment". (Other)

## **6 To what extent is the legal position on the physical punishment of children widely understood by those working with children and families?**

We have tried to include consideration of this on all training courses (Local Authority)

The situation regarding physical punishment of children is well understood by professionals and parents. (Local Authority)

My view in my team is that they are aware and at the beginning of each session with new clients we explain our role and the steps we would take if a child told us that either they or another young person had been physically assaulted. (Medical/Healthcare Professional)

Professionals need to be aware that 17 countries in Europe have modernised their assault laws to give children, equal protection and these reforms have been implemented without great controversy. The UK should accelerate the positive change across Europe rather than being one of the last to act as was the case over prohibiting corporal punishment in all schools. The legal position is not widely understood by many professionals. (Medical/Healthcare Professional)

I don't think it is, they are just as confused as parents about what is and isn't allowed. I've heard teachers and health professionals; for example, give different accounts of the law as it stands. Even if it were completely understood, it would still be wrong on the fundamental principle that it is an infringement of children's rights. (Parent / Relative)

Section 58 has created professional uncertainty, policy inconsistency and legal ambiguity (Medical/Healthcare Professional)

I think the general view is that you can't smack children - this has been highlighted by the press and that's how knowledge of the law is gained. (Parent / Relative)

The legal position from a vulnerable parent's point of view is clear. It is still legal for them to hit their children. We have not seen any useful additional protection measures against physical violence for children through the new legal position. (Charity/Voluntary organisation)

In my own service people are clear but the law does not support them in their professional work whereby non-physical methods are promoted. (Medical/Healthcare Professional)

Reasonable chastisement does not serve to warn parents off violence or protect a child from abuse. Whilst there is a perception of a right to smack a child, there is no clarity as to when, how and why or security for the child to report abuse and seek protection. (Teacher)

As someone in the teaching profession, I am only aware that physical punishment is illegal, but other than that I am not totally sure. (Teacher)

I think it is fairly well understood, just not very well accepted as it contradicts both ideologies and moral standpoints about children as equal citizens with equal human rights. (Local Authority)

I think there is considerable confusion. Parents are fearful and children are at risk from over zealous intervention by those opposed to physical correction. (Parent / Relative)

In my experience, the law is not well understood by those working with children and young people. As the messages are conflicting and vague it is very difficult to understand the true legal position. In particular, the grey areas which abound make it very difficult to assess situations which warrant legal intervention (with, of course, the permission of the child in keeping with [my organisation's] confidentiality commitments) compared to actions which are considered "acceptable". It now seems that leaving a mark on a child is not appropriate. What if the mark last a few minutes? Or hours? Or days? When does it become a legal issue? And what if skin tone changes this? And how about persistent systematic slapping and squeezing, which leaves no marks, but certainly hurts the child? What about shaking, or hitting in the back of the head? A strong positive message given by the government by changing the

law to ban all smacking would not lead to excessive conviction of parents for minor offences. However, it would empower those working with families to commit to positive parenting messages, and empower children who were victims of more serious abuse by providing them with the clear support of society and the law. (Charity/Voluntary organisation)

Reasonable' is a word that lacks clarity and is open to interpretation. Most members highlighted that they felt the general public were not aware of a change to the wording of the law and felt there were no clear guidelines on 'reasonable' or indeed 'reasonable' from whose perspective. (Medical/Healthcare Professional)

It's not! It's far too complicated. The only people who know about details of laws are those with a specific interest (e.g. I only know details of laws I have a specific interest in, and I'm meant to be well-educated) (Medical/Healthcare Professional)

In my experience this is clear. If there are child protection concerns this does not consider whether it is legal or illegal to smack a child. This may however be a contributory factor. It considers the concerns apparent. (Social Worker)

It is understood well by those who motivation and commitment are sufficiently high to have them read, understand, and accept the legal position. (Other)

I don't think it is fully understood. In my experience, professionals will have their own views about it and pass them onto the family. Either they are against any form of physical punishment and will state that, or if they believe a smack on the legs, bum etc is ok, that is what they will tell the parents. How confusing for parents is that. (Parent / Relative)

The understanding of staff has improved with the new safeguarding boards and training for all. (Other)

The position isn't widely understood unfortunately. You will sometimes see parents uncomfortable watching another parent disciplining their child physically, because they feel they are being overly forceful. The law as it stands however means that nobody is quite sure when to challenge and when not to. (Medical/Healthcare Professional)

There is some confusion particularly as smacking has a different effect on different children's skin. If the effect is to be transitory, what does that mean? Some bruises and marks can be acquired in the rough and tumble of normal play. (Parent / Relative)

Section 58 is frequently misunderstood or interpreted in a variety of ways. Can you imagine a law which said "adults can use reasonable force in an assault/argument with another adult"? The police and courts would find it difficult to proceed in many cases. Having a clear "no physical punishment" statement would not result in a huge increase in prosecutions but it would mean that parents would know exactly where the boundary stood and that if

they had crossed it, society found their actions unacceptable. Currently parents do not know that they have done anything wrong because society is not clear on this matter in law. (Medical/Healthcare Professional)

I think that the detail is poorly understood but that people are aware that parents can hit / smack their children within the law. This dilutes messages from professionals about alternative, more constructive methods of parenting and discipline. It also leaves the risk of escalation of violence, which in some cases results in serious child abuse. (Medical/Healthcare Professional)

There appears to be a great deal of confusion on the legal position, among both parents and professionals. In the House of Lords debate, Lord Goldsmith made references to the temporary reddening of skin being charged as Common Assault, and that if it should last a few hours, it may rather be Actual Bodily Harm. This seems totally unreasonable; some children mark more easily than others, from fair skinned children to black Africans. The length of time a smack may leave a red mark is hardly a fair measure. There is little doubt that this lack of clarity has led to over-reaction. Some parents may be afraid to let others see even innocent marks not inflicted by parental discipline on their children, for fear of being wrongly accused. And some professionals would too readily raise child protection concerns whenever they see a red mark or a bruise. This over zealous intervention may easily prove counterproductive. (Parent / Relative)

Understood on paper, but a widespread shrugging of shoulders and a 'what can we do?' approach. No action taken when a girl in my class had cigarette burns on her arm and was terrified of her mother. Feeling in schools that calling anyone means months and months of phone calls chasing action and no end result. Schools feel very unsupported. Degree of evidence required is impossible to collect in school. Social services do not have the budget to adequately respond. (Teacher)

[My organisation] believes that legislation should be introduced to ensure that children across the UK enjoy the same protection in law from assault, and/or from the threat of assault, as adults. Would do not believe that the answer is to promote greater 'understanding' of section 58, through guidance, public education etc. It would in fact undermine child protection as any guidance would perpetuate the message that parents and others have a legal right to assault their children. (Charity/Voluntary organisation)

In the words of the Attorney General in July 2004 reddening of the skin where it is merely transitory will usually still be charged as common assault. This is because the definition of 'actual bodily harm' requires the injury to be more than transient. Where the reddening subsists for hours or days that may suggest a charge of actual bodily harm. (Charity/Voluntary organisation)

Confused. The professionals with whom I work and who I teach about child protection seem confused on the matter. It is clear that practice both between different professionals and different agencies varies considerably with regard to interpretation of the law and with regard to practice (Parent / Relative)

There appears to be a great deal of confusion on the legal position, both among parents and professionals. In the House of Lords debate, Lord Goldsmith made reference to the temporary reddening of skin being charged as Common Assault and that if it should last a few hours, it may rather be Actual Bodily Harm. This seems totally unreasonable; some children mark more easily than others, from fair skinned children to black Africans. The length of time a smack may leave a red mark is hardly a fair measure. There is little doubt that this lack of clarity has led to over-reaction. Some parents may be afraid to let others see even innocent marks not inflicted by parental discipline on their children, for fear of being wrongly accused. And some professionals would too readily take child protection concerns whenever they see a red mark or a bruise. This over zealous intervention may easily prove counterproductive. (Individual)

Again I think there is confusion and the danger of double standards. People report physical abuse against children only to be told it is the parents right to appropriately chastise. One message for professionals and another for parents. (Faith group)

This is included in LSCB training modules, which make reference to the 2006 statement. Agencies also provide single agency training for their staff on the legal basis of work with children and families. It is not possible, without wide consultation, to be sure how clearly this particular aspect of the law is understood. However one trainer has commented that the message was received because many workers could envisage the implications for themselves as parents. (Local Authority)

It isn't. I also work in a freelance/independent capacity as an Associate Trainer for a couple of companies, delivering training across the country. All my training, which includes, Children Act, equalities and diversity, children's rights, amongst other areas, includes exploring the impact of an individual's value and culture base on their practice. I ask people 'where they stand' in relation to certain statements. Participants decide where to stand in relation to the agreement or disagreement of 'it's ok to smack children'. There is repeatedly a lack of understanding of the legislation. If this exists with childcare practitioners from a multi-agency perspective in the experience that I have had in delivering training, it must be significantly magnified if you take it as a sample for the whole country. (Charity/Voluntary organisation)

[My organisation's] child protection service regularly provides training to the range of health professionals in Wales. Anecdotal evidence suggests that the concept of 'reasonable chastisement' is unfamiliar to most. It is common knowledge however that UK law still condones the physical punishment of children at any age and often a decision about whether the action is reasonable or not is more to do with whether or not it is perceived to be abusive. Interaction at training events also demonstrates how the individual professionals own childhood or parenting experiences influences the ways in which parents and carers are advised. Therefore if 'smacking' is 'normative' for the professional then further advice suggesting alternative strategies may

not be forthcoming. It is known that it is always difficult to give advice that is contrary to ones' personal beliefs as measles, mumps and rubella (MMR) vaccinations have shown (Taylor and Redman, 2004). To retain the defence of reasonable chastisement within the Children Act 2004 sends confusing messages to professionals who will then rely on their personal judgement about what is reasonable or not. (Medical/Healthcare Professional)

I think the legal position is clearly understood. What it does not protect against is exaggerated reports or honest mistakes. For example, a parent may need to take very urgent drastic action to grab a young child at risk of running off in a car-park or road. It would be easy for an onlooker to think the child had been hit by the parent, particularly if the parent is shouting at the child (as would often occur). The onlooker might be tempted to criticise the parent, or interfere, or report to the Police, as this is what the legislation inevitably encourages. (Parent / Relative)

We believe that section 58 has increased confusion and the legal position is not widely understood. But we emphasise that issuing guidance on the current inadequate legal framework, reaffirming that some level of violence can be justified as punishment, would not help child protection or the work of [my organisation] in any way. The Government should remove the defence completely and link that clear reform with public and parent education. (Medical/Healthcare Professional)

Promoting further "understanding" through guidance, public education etc. could not avoid explaining the legality of physical punishment, so would make the situation even worse. (Local Safeguarding Children's Board)

[My organisation] considers that the present situation is not well understood by paediatricians or other health professionals. Paediatricians are aware that the presence of a bruise may be a sufficient condition for physical abuse, but it is not a necessary one - i.e. severe abuse can occur without there being a bruise. Hence there will not generally be understanding of the legal position and there may be questioning of the application of the law. Paediatricians would prefer if the law was unequivocal and stated that children have the same protection as adults; this would be much easier to understand both by parents and by health professionals. (Medical/Healthcare Professional)

Practitioners working with children will be advising parents against smacking so the change may strengthen their advice giving. I do not believe however that it is generally known. (Local Safeguarding Children's Board)

Those professionals working within the child protection arena endeavour to raise this issue via multi-agency child protection training, which is delivered on a regular basis. (Local Safeguarding Children's Board)

I think it is clearly understood by some and not by others - some people are keen to find out for themselves, some agencies and employers have good training and information systems. Some small day care providers perhaps don't have resources to provide cover to keep staff well trained. (Other)

There is great confusion among many parents and also the danger of over zealous intervention. I have heard of some parents who have been afraid to take their child to the doctor for advice for fear that they will be accused of abuse or neglect for a bruise or graze their child has acquired through playing. (Parent / Relative)

It has been understood on a different level from what it should be. The actual injury in common understanding is when reddening of skin occurs and stays on for at least few hours. Whereas in the section 58 even a mental pressure is also described as physical chastisement. (Faith group)

Section 58 has perpetuated a dangerous confusion as the message stands as 'carry on smacking'. The media has coveted this subject and enforced the belief that the primary way to chastise your child is through physical punishment. There is not one child I have worked with who when offered as opted for the method of physical punishment over non- physical methods of chastisement. The Government has spent much time and effort trying to change our country into a modern state. If it is to achieve that status then traditional values need to be abolished altogether. (Social Worker)

I would expect the legal position to be understood by those working with children and families. There may remain an ongoing uncertainty as to how courts would practically apply the law, especially as the precise nature of charging could now have a disproportionate effect on the parent's ability to mount a defence. However, I do not expect that the position is clearly COMMUNICATED to parents, especially by those agencies that lobby against the use of physical punishment. Promoting excessive reliance on other sanctions and stigmatising moderate and loving physical punishment harms children, families and society. (Parent / Relative)

We do not consider the legal position to be widely understood at the operational level of Social Care, although it is probably better understood by people responsible for policy, namely LSCBs and Managers. This is largely because it is almost impossible to understand, because it leaves too much to subjective interpretation of what is 'reasonable'. Our impression is that it has not affected practice very much, and professionals are working more or less as they were before. (Charity/Voluntary organisation)

**7 If your answer to question 6 above was that the legal position was not widely understood, please tell us what would be your preferred way of improving this situation?**

Need more supported learning on alternative means of discipline...setting boundaries and responding to difficult and challenging behaviour.... (Local Authority)



Either educate parents/carers in what level they can use or outlaw physical chastisement altogether. (Police/Legal Professional)

More initiatives like the NSPCC's "Don't Hide It" aimed at 11 – 16 year olds, which urges children to speak out on all forms of abuse. Use of TV, radio coverage magazines, (adult and teen), websites etc. If the issue is not given high profile coverage, how will the solution ever be addressed? It needs to hit everybody's radar. (Medical/Healthcare Professional)

There is only one way, and that is to give children equal protection against assault immediately by removing the reasonable punishment defence. This is required of the UK by international law and convention (European Court ruling and UN Convention on the Rights of the Child, for example). Countries across Europe are increasingly taking this step (some did it 30 years ago, so we're already way behind the times) and it would be a disgrace if we were the last one to do what is right and just for children. Changes in the law should be accompanied by a national campaign to explain the changes and help parents develop more positive methods, as was the case in Sweden and Germany to name just two of the countries who have shown us the way. (Parent / Relative)

This is primarily a human rights issue. Everyone needs to understand that children have the same right to physical integrity, human dignity and equal protection under the law as the rest of us. The law should send a clear message that hitting children is as unacceptable and unlawful as hitting anyone else and that abolishing "reasonable punishment" is a long-overdue obligation under United Nations and Council of Europe human rights agreements (Medical/Healthcare Professional)

In our view, all physical violence against children needs to be unlawful in order to clarify tolerable levels of violence against children. Until this happens, children will remain extremely vulnerable to the miss interpretation of Section 58 by parents. (Charity/Voluntary organisation)

Since many parents are not literate (at least within the circles that I teach) literature is pointless as is organising a meeting by some government official speaking 'officialese', what the answer is I am not sure. (Teacher)

In the case of the smoking ban there have been effective publicity campaigns of various kinds. They could be copied in this case. (Charity/Voluntary organisation)

One option would be to repeal section 58. Maybe we could use the example of the law in Arkansas and enshrine in law that parents are allowed to use moderate and reasonable physical chastisement to correct their children's behaviour. This may need defining, at least in what it is not. (Parent / Relative)  
It has to be some form of communication, perhaps accompanied by a CPD style online test. (Parent / Relative)

Any attempts to educate about or clarify Section 58 would undermine child protection as they could not avoid restating the legality of physical punishment, which would be the key message taken up by the media – as was the case when Section 58 came about. Once again the “carry on smacking” message would pervade, making the situation even worse. However, if the government changed the law to fall in line with its stated commitment to positive parenting and claim to not condone physical punishment, the grey areas and consequent lack of protection for children would change. Practitioners, parents and children would receive a clear message which would lead to the improved protection and support of all. (Charity/Voluntary organisation)

Section 58 undermines the promotion of positive non-violent discipline and sends a confusing and dangerous message about the acceptability of violence against children. The law needs to send a message that hitting children is as unacceptable as hitting anyone else. (Medical/Healthcare Professional)

You cannot interest people in things they are not interested in. The only way to get a message over, so that it's understood is to have it simple - words of one syllable in one sentence, then even a passing encounter with law (e.g. a TV advert) is likely to leave a reliable impression of what that law is. For example: it's illegal to hit people. Children are people so it's illegal to hit them. Or: Hitting someone smaller than your self is bullying. Children are smaller than adults, so for an adult to hit a child is bullying. (Medical/Healthcare Professional)

I think that section 58 should be removed. Also I believe that the law should state that a moderate form of physical chastisement is acceptable for parents or the legal guardian of a child. (Faith group)

it could not help child protection or parents in any way to promote greater “understanding” of section 58, through guidance, public education and so on; · It would in fact undermine child protection further as it could not avoid promoting the message that parents and others have a legal right to assault their children. · Educating people about a flawed law which conflicts with basic human rights cannot be helpful. · The only solution is complete removal of defence to fulfil children's right to equal protection, thus sending clear, simple and just message. (Medical/Healthcare Professional)

The best answer would be to repeal section 58. There are other clear laws in other countries which allow reasonable chastisement and yet protect children. Indeed I believe that children need to be protected from misguided zealots who would deprive them of loving discipline. To be deprived of the boundaries that such sanctions bring, and to be deprived of the loving guidance that must include such discipline, is child abuse: just as much as if a child were deprived of food and water. So protection against those who have an ideological commitment to banning smacking would improve the situation. (Parent / Relative)

For those (and, sadly, I have encountered many in my 49 years working with children) who work with children without high motivation and commitment (they just want a job, any job) no amount of encouragement will make much difference. (Other)

What we need is to have a court case against a parent for breaking this law by slapping his /her little one. We need the outcome of that case to vindicate the parent and to set the boundary where it always was when slapping was not to be regarded as cruelty but real cruelty was tried under previous legislation. (Parent / Relative)

Parents we have met are not clear that loving controlled smacking is legal. It has become a taboo subject for parents to discuss. (Parent / Relative)

Clearly stating that all physical punishment is unacceptable. No force should be used as a punishment. Force can be used to restrain children from danger but not as a deliberate act to punish. Clarity with the smoking ban in public places was widely hailed as a victory for common sense. (Medical/Healthcare Professional)

I strongly favour a change in the law to make all physical chastisement /smacking / hitting against the law, in keeping with the UN Convention of the Rights of the Child and Human Rights legislation. This is no more than is already the case for adults. Why should children, who are physically vulnerable and immature, be allowed to have LESS protection than a grown adult has? A child does not distinguish between a hit and a smack: They both hurt and are often done with the intention of hurting. We would not be allowed to hit an adult. This is not to say that adults never hit each other, but it is not legal and could result in a court case. I do not share concern about "criminalising parents", as evidence from other countries is that court cases do not increase on this type of law change. In fact, there is evidence of reduction of serious child abuse cases instead. This was true even when legislation preceded majority opinion in Sweden. The law can help change the social norms and therefore protect more children and protect more effectively. (Medical/Healthcare Professional)

The simple option would be to repeal section 58, and return to the law as it stood before the Children Act 2004. Better still, Government should enshrine in law, that parents ARE allowed to use moderate and reasonable physical chastisement to correct their children's behaviour. In Arkansas in the USA, the law is very helpful as a model for us to examine. It gives examples of what constitutes physical, psychological or sexual abuse. It is careful to distinguish between abuse and lawful chastisement; " 'Abuse' shall not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian with the purpose of restraining or correcting the child." The Arkansas law then lists certain actions which are not deemed reasonable or moderate. The list is not exclusive. The UK government stated that they had no intentions of banning all physical correction. But it has not been clear in supporting parents who use smacking, or letting them know that this is still an option open to them. (Parent / Relative)

I think there should be a separate definition for mild controlled physical chastisement, commonly known as a "smack" , which is legal, which is clearly separate from violent physical hitting, which is commonly known as assault and obviously illegal. Parents' fear that they could be charged with assault, after for example, smacking a young child on the bottom when they ran off into a dangerous road, is not helping anyone in establishing good discipline. (Parent / Relative)

Posters, TV announcements and at parent group meetings. (Police/Legal Professional)

Make all physical punishment illegal. It's not hard. It's a simple solution. It shouldn't require consultation, it shouldn't require much thought. Don't hit children. Don't grab them, shake them, slap them, pinch them, anything. Don't do it. (Teacher)

The implementation of the Children Act 2004 poses a potential conflict for professionals working with children and their families. Section 28 with the requirement to safeguard and promote the welfare of children clearly is incompatible with the necessary acceptance of lawful physical punishment (Section 58). Professionals need to provide consistent advice and evidenced based practice on what is best for children. Since the evidence against hitting children outweighs evidence to the contrary the implications for practitioners are obvious. Whilst the law still permits physical punishment professionals will be compromised in the advice they provide to parents and face uncertainty about when they should intervene in family life. In order for these grey areas to be cleared, so that children at risk of harm might be afforded greater protection and the welfare of the wider population of children promoted, the message must be that no physical punishment is reasonable. (Medical/Healthcare Professional)

Pamphlet explaining it simply and given to all parents at the start of each school academic year. (Charity/Voluntary organisation)

Provide us with briefings/presentations that we can deliver locally (Local Safeguarding Children's Board)

Guidance easily available on the internet and in paper format to all Local Authorities about the exact definition of 'reasonable chastisement', including reference to assessing context, consistency, whether the parent intended to hit the child, age of child, understanding of child, alternative discipline methods considered first etc. (Social Worker)

I believe it would be better for the law to make clear that parents are entitled to use moderate and reasonable physical punishment. Examples of what is inappropriate could be listed, based on unacceptable methods rather than on some indefinable length if reddening of the skin. Examples might include kicking, punching, hitting the face. It could also put a limit on the number of smacks (as the Education Act of 1947 did for the cane in schools). (Parent /

Relative)

It should clearly set up boundaries for the parents and teachers when they have to punish their children. (Faith group)

Remove section 58 completely and make it clear that ANY form of physical punishment is illegal. Reaffirm other methods that are working (dependent on age) such as star charts, points system, naughty step, grounding etc. (Social Worker)

The law should be changed as recommended by the UN Committee on the Rights of the Child and others - hitting children is unacceptable and the law should say so clearly. (Parent / Relative)

The government ought to make positive statements that it supports the responsibilities of parents to exercise reasonable chastisement in their rearing of their children. This is a two edged statement for it include the protection of vulnerable children and also the need for parents to train their children in right thoughts and behaviour. (Parent / Relative)

Make the law explicit - prohibit all physical punishment of children and afford them with the same protection and human dignity that we afford adults. Equal protection from assault is the only just and safe way to clarify the law and meet human rights obligations, notably recognition from the European Committee on Social Rights in July 2005 that 'since there is no prohibition in legislation of all corporal punishment within the home, the situation [in the UK] is not in conformity with article 17 of the European Social Charter, and calls from the UN committee on the rights of the child in 2006 to ensure that equal protection for children is 'an immediate and unqualified obligation' - a sentiment echoed by the UK's children's commissioners who declared that there is 'no room for compromise' on equal protection from assault for children. (Teacher)

The current law is unprincipled and unjust, and we do not consider that it would be fitting or appropriate for the government to issue guidance or develop training programmes to clarify how parents and carers can hit their children legally. There would be outrage if this were proposed to enable spouses to hit their partners, or adults to hit their elderly dependent parents, and it should not be produced to enable parents to hit their children. (Charity/Voluntary organisation)

National publicity which focused on positive parenting and on the limitations of relying on reasonable chastisement only as a secondary issue would be sensible. Provision of leaflets promoting positive parenting and on the limitations of relying on corporal punishments, made available at health centres and other universal settings would be useful. (Local Safeguarding Children's Board)

**8 Have the changes to the law had a differential effect on different groups of children and parents, including on the grounds of gender, race and disability, and if so, to what extent?**

Those working with some minority ethnic communities say that parents from those communities understand that they are not supposed to hit children but have few other ways of maintaining discipline. (Charity/Voluntary organisation)

Lots of ethnic groups use physical chastisement and I believe that this will affect them more than anyone else. Devout Christians for example still believe in physical chastisement and they believe if you spare the rod you spoil the child. (Police/Legal Professional)

Although I do not notice a change in terms of gender, race or disability, I do notice a difference in class, with working class families having a greater difficulty in managing control of their without physical chastisement at a lower level than before. (Medical/Healthcare Professional)

It is questionable particularly when it is estimated that 205,000 children will witness domestic violence over a 3 month period. [A certain organisation's] counsellors spoke to nearly 50,000 children who had been affected by bullying or physical abuse. One in six children will be sexually abused before their 16th birthday. (Medical/Healthcare Professional)

I don't think they have made any difference, although there is the potential that they could be racist in their application. If the test of "reasonable punishment" is evidence of bruising, this will be harder to establish on children with darker skins. And so it is possible that black children will suffer a greater degree of harm before they reach the threshold of the law as it stands. (Parent / Relative)

Maybe the potentially racist effect (arising from a lesser chance of bruising being seen on darker skinned children) is a good example of a 'differential effect'. (Medical/Healthcare Professional)

I don't think it is just a case of gender, race and disability. There are also differentials according to religion and care status. These are important omissions in your categories. 'Disability' is a wide category, which is also linked to differences in gender, ethnicity, religion, culture and age. (Teacher)

I have no evidence, but bruising can be harder to detect in children with dark skins so they may be discriminated against in terms of seeing evidence of the punishment. (Medical/Healthcare Professional)

There is anecdotal evidence of hitting in some mosque schools to enforce rote learning and use of corporal punishment in some Christian religious groups favoured by the black community. Grasping the nettle promotes equality and rejects cultural relativism where fundamental human rights are concerned. (Teacher)

Parents in the middle and upper classes probably have taken more notice of this, but it is my experience that parents in the working classes have taken no notice at all. As I walk around the town centre or supermarket I am witness to any number of slaps and such to children. (Teacher)

The arguments around cultural acceptance are not such as to lead us in this society to tolerate behaviour among [black and minority ethnic] communities which would be unacceptable in the traditional white community. I am thinking, for example, of female circumcision or beating by a senior member of an ethnic group, such as is reported. Sorry I do not have chapter and verse. (Charity/Voluntary organisation)

Yes, in that some children mark more easily than others. E.g. with fair skin. I don't think there is much evidence yet, but the law seems to be based on ideology and not hard evidence that reasonable physical punishment is harmful and therefore discriminates against anyone with a different ideology or culture. (Parent / Relative)

Yes, Section 58 has had a differential and discriminating effect on different groups of children and young people. By definition, current laws discriminate against people on the basis of age. An 18 year old is more protected from physical attack than a 17 year old, and has more right to live without such attacks. Families and children coming from other countries, where more extreme forms of corporal punishment may be accepted, receive no clear messages about the law in this country, potentially putting these children at greater risk while here. The Commission on Racial Equality has also stated that the use of bruising as an indicator as stated by section 58 discriminates against those whose skin tones are not white, as abuse may be less visible. On a number of occasions, I have spoken to young men (14-17 or so age range) who are regularly engaged in fairly adult fights with one of their parents. They appear to feel a pressure to take these experiences "like a man", but ironically are not afforded the protection they would be given if they were adult. It is likely that boys and young men, who are less likely to seek help anyway, are additionally put at risk by the inadequacies of section 58. (Charity/Voluntary organisation)

Fair skinned children tend to mark more easily. These parents are clearly at greater risk. (Parent / Relative)

A simple clear (and by the way morally correct) message could make all the difference (Medical/Healthcare Professional)

I believe there are those whose morals, principles and beliefs suggest physical chastisement is wrong and there are those who do not believe this is the case. I have no experience where the change to the law has had a differential effect on different groups. (Social Worker)

Section 58 has a discriminatory impact on children as a group, in contrast to any other population group, by denying them their basic human right to equal

protection under the law and equal respect for their human dignity and physical integrity. Section 58 represents fundamental discrimination by age, with no possible justification for denying children equal protection: the special vulnerability of children to violence is obvious. Implementation of section 58 may additionally discriminate against certain groups of children. For example: Research shows that babies and very young children are particularly at risk of physical punishment. The Commission on Racial Equality (CRE) has stated, to the extent that section 58 uses bruising as an indication of unlawful assaults, it discriminates against children whose skin is not white. Disabled children are known to be particularly at risk of physical assault by parents and others, so the perpetuation of the "reasonable punishment" defence may affect them disproportionately. (Medical/Healthcare Professional)

No direct experience of this, but social deprivation and family disruption are two of the stronger associations with overt child abuse and these families will be ignorant of the change in the law and are very likely to ignore it anyway. (Medical/Healthcare Professional)

I think that there is still a slight anxiety amongst some professionals to challenge certain parenting practices because they feel that they are 'culturally appropriate'. I think that professionals need further support and training to be able to assess situations with confidence and keep the welfare of the child at the centre of their work. (Charity/Voluntary organisation)

We haven't noticed any significant effects at all. Those parents who were inflicting heavy-handed and inappropriate punishment (of whatever gender, race, or disability) continue to do so. (Other)

Some religious groups consider themselves beyond the law and section 58 condones that attitude by perpetuating the belief that violence towards children is officially sanctioned (Medical/Healthcare Professional)

I believe that some cultures claim that is appropriate for children to be disciplined physically. I have in the past dealt with some offenders who have claimed that is acceptable within their culture, to discipline children using belts, shoes etc and they claim it is culturally acceptable to have left bruising on the child. From research that I have carried out, this has never been the case and in all cultures the physical chastisement of children divides public opinion. What section 58 does do however, is give such people a way of suggesting that British law allows them to carry on with their own cultural beliefs as they are acting 'reasonable' by their own cultural standards. (Police/Legal Professional)

Again the fact that different children mark more easily than others places their parents at risk of being charged with actual bodily harm even when the parent acted reasonably. (Parent / Relative)

Only that fair skinned children are more at risk of seeing their parents prosecuted and themselves possibly taken into care, because their marks may show more readily. Evidence is not readily available. In fact, it is difficult



to know what could be constituted proper evidence in this matter. (Parent / Relative)

We have no evidence that groups have been differentially affected by this law. Section 58 does have a discriminatory impact on children as a group, in contrast to any other population group, by denying them their basic human right to equal protection under the law. As such, section 58 represents fundamental discrimination by age. In addition, research evidence shows that disabled children are particularly at risk of physical assault by parents and others, so the 'reasonable punishment' defence may affect them disproportionately. (Charity/Voluntary organisation)

Any family where there is a culture of violence has been adversely affected by the change in law because parents and children think its okay to hit children. (Charity/Voluntary organisation)

It is a cultural issue with some families from another country who believe in smacking their children and with the use of something. (Police/Legal Professional)

It shouldn't make the blindest bit of difference. Being Chinese, Hindu, transgender or wheelchair-bound does not give you the right to physically punish children, nor does it give you any kind of sympathetic leeway. Children are children, whoever they are and whoever their parents are, and they are all entitled to equal protection under the law. If some groups (the Welsh, the blind, etc) feel that they deserve special dispensation, then they need to be taken to court immediately and punished themselves. No excuse. Culture is not a free pass. (Teacher)

Probably although I am unable to substantiate this. Our work is largely with the Bangladeshi community in East London where there is a strong tradition of corporal punishment. We have had reports of use of corporal punishment by authority figures outside the home, including caning. The children involved have been too frightened to report this. On some occasions we have been able to do so on their behalf but often at the risk of alienating parts of the community and losing contact with the children concerned. The children are often frightened that if their parents find out they will punish them too. A change in the law would be the only way to tackle practices like this. (Charity/Voluntary organisation)

I suspect that it has an impact on all groups. Some cultural groups use corporal punishment more regularly, so a clear statement that it is unlawful would be helpful here. (Charity/Voluntary organisation)

Disabled children and young people are four times more likely to be neglected and physically abused and over three times more likely to be emotionally abused. (Ref: "It's Our World Too!" DAA 2004) Disabled children and young people are more likely to be disproportionately the victims of violence and abuse. They are certainly more likely than their non-disabled peers to be hidden from view or forced to live in institutional care with little or no capacity

to challenge violence, abuse or neglect. Too often, staff are not trained, are paid low wages, there is no system for regular reviews, children have no rights to independent advocacy or consistently accessible mechanisms for complaint in the event of abuse. The low status with which disabled children are widely regarded further exposes them to violence and abuse. Because Section 58 does not outlaw violence and abuse (if it can be proven to be justified) then disabled children and young people will continue to be subjected to crimes. The perpetrators are more often than not those in positions of trust and control – parents, care staff, teachers. (Charity/Voluntary organisation)

It discriminates black children because hitting a black child does not leave a visible mark in the same way as seen in a white child's skin. As a paediatricist working in child protection, I have found it more difficult to diagnose injuries in black children who have alleged to have been abused - (Medical/Healthcare Professional)

You would only be able to find out the differential effects of the law on children and parents by consulting them. In every other area of government policy in relation to children, they are now consulted as a matter of course. How is it possible that this consultation process does not seem to have included those who are most affected - children? (Parent / Relative)

There is no evidence of this that we are aware of. Findings of studies suggest that in reality the 'best interests' of the child is not often the motivating factor for corporal punishment by parents. One in seven parents who stated that they disapproved of physical punishment also admitted having used it (Ghate et al 2003). So presumably these parents would not subscribe to the view that, in truth, their actions were motivated by their child's best interests. Perhaps 'crisis management' may be a better descriptive of the motivation to hit children. In the light of these and other findings which inform us about the circumstances in which children are hit by their parents/carers, commonly as a response to emotional arousal in the adult brought about by anger directed at the child, then it is unlikely that a mere limitation of the law, even if parents were aware of this, could alone have any meaningful effect on the parenting in any group. The message that any physical assault is not acceptable would have much more influence. (Medical/Healthcare Professional)

Section 58 discriminates against children as a group in our society, by providing them with less protection against assault than adults. Logic and humanity would suggest that children should have more, not less, protection. Research suggests that babies and toddlers suffer the most physical punishment. Children with disabilities are particularly at risk. In addition, as the Commission for Racial Equality has underlined, the suggestion that the extent of bruising may determine prosecution policy under section 58 discriminates against children whose skin is not white. We are strongly opposed to smacking children or any corporal punishment as a form of discipline. (Medical/Healthcare Professional)

It is not just a case of gender, race and disability. There are also differentials

according to religion and care status. These are important omissions in your categories. As identified in response to question one, private fostering is a significant omission. Looked after children are particularly vulnerable. (Charity/Voluntary organisation)

The 'best interests' of the child is not often the motivating factor for corporal punishment by parents. One in seven parents who stated that they disapproved of physical punishment also admitted having used it (Ghate D. et al, (2003). The National Study of Parents Children and Discipline in Britain, Economic and Social Research Council, 2003). ). Presumably these parents would not subscribe to the view that, in truth, their actions were motivated by their child's best interests. Findings of studies have informed us about the circumstances in which children are hit by their parents/carers, commonly as a response to emotional arousal in the adult brought about by anger directed at the child. In view of this it is unlikely that a mere limitation of the law, even if parents were aware of it, could alone have any meaningful effect on the parenting in any group. The message that any physical assault is not acceptable would have much more influence. (Medical/Healthcare Professional)

The main example I can think of I spoke about earlier: that Black African families often say to me and my colleagues that they are allowed to hit their children in their own culture / country and do not see it as a problem. Many referrals come in for this particular group and many of the parents use implements such as belts and sticks to hit their children. They see this as 'reasonable chastisement' so when myself as a white professional goes into their home and says that their way (using implements) is illegal in Britain, but British law states that smacking is ok, is sending very mixed, confusing messages. (Social Worker)

Children with fair skin mark more easily than children with darker skin. Section 58 places such children at risk of seeing their parents charged with actual bodily harm in order to remove the defence of reasonable chastisement, when the parent has in fact acted in a reasonable way. (Parent / Relative)

Children with disabilities are at increased risk of all forms of abuse. This legislation places children who may not be able to communicate adequately to others any abusive treatment they are suffering at even greater risk, because it minimises violent responses to children whose behaviour may be the result of their disability or ongoing experiences of abusive behaviour. I am a volunteer with a charity supporting children with special needs and have discussed these issues with a number of parents and staff. (Parent / Relative)

We are not sure why this question is being asked. It would be helpful if the consultation elaborated on its inclusion. There is a danger that responses to this question could lead to unhelpful stereotyping of individuals and groups, and groundless assumptions. There have been reports that some sections of the community may object to the changes to the law on religious grounds; however, there are huge differences of opinion amongst individuals of the same faith so this argument simply tells us that opinions about the physical

chastisement of children are mixed even within distinct groups. We have not come across any research findings in respect of the law having a differential effect on different groups of parents and children. However, we do feel that this is an unnecessary diversion from what is needed i.e. an effective campaign to end the legal and social acceptance of hitting children in England and simultaneously, the empowerment of parents by providing them with more effective sanctions. Social workers are used to engaging with families where violence is present and find that many of the parents they work with develop their behaviour patterns from their own childhood; they have never had the benefit of knowing about and adopting alternative strategies. For some, professional intervention has proved to be a turning point in their lives in the sense that it liberates them from their former 'learned behaviour' and helps them to enjoy the role of parenting rather than endure it. Moreover, it is not only the children who live in fear of physical violence but also those practising it; parents that I have worked with have shared their feelings of distress and guilt as a result of hitting their children. To conclude, the abuse of children is no respecter of persons; it affects all social and cultural groups and requires a consistent and constructive approach if we are serious about its eradication. (Social Worker)

Children, by definition of their age, are discriminated against by this law- they are not ensured equal regard and protection. They are most likely to be at risk in communities in which physical punishment has traditionally been endorsed and is what the parents' experienced. (Teacher)

We are very concerned about the effect of section 58 on babies and infants, disabled children and refugee children and others from immigrant communities. Research for [a Government Department] shows that babies and very young children are hit more often than older children. Joint research by [certain organisations] into how parents discipline their children shows that toddlers, pre-school children and those deemed by their parents to be "difficult" are most likely to be hit. The same study shows that young parents, those with unsympathetic partners and those who describe their relationship with their child more negatively are all more likely to endorse and use harsh physical punishment. This research would seem to endorse the view that using physical punishment is much more to do with the state of mind of the parent than anything to do with the behaviour of the child. Babies, toddlers and pre-school children present challenges to parents because of their developmental stages; their behaviour can be highly unpredictable and difficult to understand. It is such children who need the full protection of the law and who need the support of Government and other welfare agencies to promote positive parenting in order to protect them. (Charity/Voluntary organisation)

## **9 What are the key pieces of evidence that should be considered as part of this Review?**

Attitudes of conscientious, normal, parents who are afraid to smack their children in case they break the law. (Individual)

The United Nations Committee on the Rights of the Child General Comment No. 8 (2006) makes it clear that "the Convention [on the Rights of the Child] requires the removal of any provisions (in statute or common – case – law) which allow some degree of violence against children (e.g. "reasonable" or "moderate" chastisement or correction), in their homes/families or in any other setting." (Charity/Voluntary organisation)

It is an offence for an adult to hit another adult; therefore this should also apply to children. Smacking children may result in emotional problems for children, e.g. poor self esteem, lack of confidence. (Local Authority)

Any legislation which legitimises assault on children is wrong, regardless or not of whether it is dressed up as "smacking" or "physical disciplining". Children should have equal protection under the law. It is incredible that in a modern society, we deny our most vulnerable members basic human rights that adults enjoy. Moreover, hitting children is not an effective or desirable means of parenting. The government should recognise that hitting children is wrong, just as hitting adults is wrong. Indeed, we are in breach of our duties under UN Convention. (Individual)

I think a wide consensus of parents and professional. (Medical/Healthcare Professional)

Parents need support and advice on how to use alternative methods of discipline than corporal punishment without being preached at about how to raise their children. If the review is to clarify the legal position it should be made a high profile public issue. Previous changes have been kept too quiet. (Parent / Relative)

There needs to be a balance drawn between the perpetrators of violence against children and the vast majority of parents who struggle to do what is right for their children, often in difficult and challenging circumstances. It has to be acknowledged that criminalisation of smacking would take up a great deal of time and resources which could be put to better use in protection children who are in real danger. There needs to be consideration with regard to whether it is in the public interest to prosecute caring parents for what many would regard as an occasional quick smack. Of course we must not forget that the UK needs to ensure compliance with the European Convention on Human Rights. There is not justification that the UK seems to allow an element of violence against children that would be totally unacceptable if it were between two adults. The focus should be equality and human rights in line with international treaties. One persons "smacking / stopping" is another persons "hitting" but is that not a way of dressing up "assault"? Isn't "reasonable punishment" a way of minimising "assault" and therefore should not be seen as a defence for parents / carers. As professionals we would like the government to reconsider what is basically the case at present that "carry on smacking, but don't leave a physical mark" is ok when in fact in any

civilised society it is not ok. There should be a clear and safe message that hitting children has no place in positive discipline, otherwise there may be a tendency to assault in places or in ways that are less likely to cause visible bruising / marks but which may risk causing serious injury e.g., blows to the head, shaking etc. There needs to be abolition of "reasonable chastisement" to order to satisfy our human rights obligations to children under United Nations treaties. Children are entitled to physical integrity and human dignity just like adults. (Medical/Healthcare Professional)

The UN Convention on the Rights of the Child and associated reports from the UN Committee responsible for monitoring the implementation. The European Court Ruling against the UK. The Council of Europe policy position and current Europe wide campaign. The public policy of the Commissioners for Children from all 4 UK countries. Research findings on the effects of smacking which demonstrate negative correlation between physical punishment and desired outcomes for children. The views of children. We have never smacked our children but have discussed with them all along what is okay and what isn't. When my daughter was younger she summed it up in the simple and clear way that only children can. When asked what she thought about smacking, she said "It's not fair. Grown ups are naughtier than children and they are naughty more of the time but nobody can smack them. Anyway, smacking doesn't teach children right from wrong; it just makes them more rebellious". (Parent / Relative)

What impact has this had on child safety? Has there been an increased in reported abuse? How has this legislation affected educational attainment and overall crime and disorder levels? (Parent / Relative)

I am of course against physical punishment. But if it is simply prohibited, there is a danger that it will be replaced by other forms of punishment such as shutting children in their rooms, standing them in the corner, verbal humiliation and so on. These can also all too easily overstep the mark and become abusive. Parents have to show children how to behave acceptably. But to achieve the desired effect, there has to be also a programme to show them how to. Some of the campaigning literature is based entirely on human rights; important though these are, parents need to be shown what they can do instead. An Act of Parliament can't be a manual on parenting, but it should at least include a requirement for better parenting education. I would recommend, if you don't already know it, a book by Adele Faber and Elaine Mazlish, 'How to talk so kids will listen and listen so kids will talk' (Avon Books 1980). Of course it doesn't have all the answers, but it shows the approach: explaining, giving children a choice, praising and so on. It doesn't just advise against physical punishment, it advises against punishment, and gives authoritative quotations to support this (pp. 115-7). It isn't based on children's rights, but on the fact that other methods actually work better. See also the section on punishment in any psychological textbook, such as R L Atkinson et al, 'Introduction to psychology'. Those who support the campaign will be able to do so more effectively if they have an answer to the inevitable question 'What are parents supposed to do instead? 'Showing parents what to do will be more effective than threatening them, in turn, with punishment if they don't

comply. (Charity/Voluntary organisation)

Evidence gathered through officer contact with vulnerable families. In particular in our case, our Child Contact Centre (Registered via National Association of Child Contact Centres). (Charity/Voluntary organisation)

Reasonable' is a very slippery word, never more so than when it is in the hands of colleagues in the legal profession. Remove it, ban hitting, and children will be much better protected (Medical/Healthcare Professional)

This response form has been designed without room for open views. Evidence of good practice amongst those who decide to use smacking would be a help in this process. How many non-professional parents will be comfortable filling this in? Or is there a separate consultation going on for that reason? (Parent / Relative)

Care Matters: White Paper, 2007 (Teacher)

NSPCC 100 days for Children report May/June 2007 (Medical/Healthcare Professional)

Do not underestimate the long-lasting effects that physical punishment can have on children, sometimes reaching into adulthood. As a parent who completely abhors physical punishment and knowing many similar parents who have all seen their children grow into fine adults; this proves that whilst there needs to be discipline in the family it certainly does not need to be physical. Children are the most important people in society and their human rights must be fully granted and observed. (Parent / Relative)

International Human Rights standards and the CRC give the best guide. The UK should be leading, not following, in the achievement of these aims. (Teacher)

It is essential that the review consider the dangerous consequences of responsible caring parents being deterred from using acceptable levels of physical punishment and the possible consequences for children (and society) of children not being properly disciplined and learning the limits of acceptable behaviour. (Parent / Relative)

What children say- my girl hates seeing kids being smacked and has an opinion about it. I would think most children must have opinions on being hit. What children's organisations, social services and education say because they work with children. (Parent / Relative)

The voices, opinions, beliefs and views of children and young people, besides, it's their realities that should inform this, not our assumptions about their realities. Ask yourself this, if it was legal for another human being to hit you when they felt you needed punishing you'd be pretty fed up. So why expect children to tolerate it? Need I really say more? It really is about time the government and its antiquated laws pulled themselves out of the middle

ages. (Local Authority)

The review should take into account 1. academic research showing the benefits of smacking - by Dr. Robert Larzelere 2. Public opinion properly gathered. 3. The harm done by anti-smacking laws elsewhere e.g. Sweden - increased child abuse and child-on-child violence. In fact we see that here already with the just parents now being scared to physically chastise their children. 4. The unique relationship between a child and their parent. The love and the fact that the child is immature and needs training. Thus they cannot be equated to adults. We are seeing the result of lack of discipline and training on our children for example in increased crime and the unhappiest children in Europe. (Parent / Relative)

This review should be conducted in a climate of positive support for parents and of the traditional concept of the nuclear family in the UK, derived largely from the influence of Christian teaching on the nation in the past. All evidence that supports the benefit to children of being raised in stable families and in the context of love (which, to be love has also to encourage children to fulfil their potential) should be acknowledged and taken into account and the furtherance of ALL that is good for children (not just appropriate discipline) should be set out at the outset of the review and kept in mind throughout. I realise that this is a review of a law but parents should not be made to feel that if they make a mistake in this area the state is waiting to pounce. The state has a role and responsibility to protect and to remove vulnerable people, if necessary, from abuse. But it also has a role to support and promote what is beneficial. The presence of chastisement is more beneficial than its absence. Smacking can form part of chastisement but a context of encouragement is vital. (Parent / Relative)

Smacking is not violence, if a child does wrong and it is done in a controlled manner. We need to teach correct use of punishment not ban legitimate forms of punishment, which help teach children to restrain from doing their natural foolish tendencies. (Parent / Relative)

ChildLine is able to provide a wealth of statistics about attitudes to smacking in British families, effects of the physical and emotional harm done, and frequencies of various forms of abuse. This can provide an excellent resource in legislative processes. In the last 18 years, 16 European countries have legislated to satisfy the human rights obligations which the UK has by giving children equal protection from assault. By consulting and examining the experiences of Austria, Bulgaria, Croatia, Cyprus, Denmark, Finland, Germany, Greece, Hungary, Iceland, Latvia, Netherlands, Norway, Romania, Sweden and the Ukraine, the government could learn of the benefits and possibilities of a total ban on smacking. It is not an impossible piece of legislature, and is in fact something we are obliged to do: The UN Committee on the Rights of the Child has twice recommended equal protection for children, in 1995 and 2002. In its 2002 report on the UK, the Committee stated: "...governmental proposals to limit rather than to remove the 'reasonable chastisement' defence do not comply with the principles and provisions of the Convention..., particularly since they constitute a serious



violation of the dignity of the child.” In July 2006, the UN Committee on the Rights of the Child reminded all states that “...the requires the removal of any provisions (in statute or common – case – law) which allow some degree of violence against children (e.g. ‘reasonable’ or ‘moderate’ chastisement or correction), in their homes/families or in any other setting. The October 2006 report of the United Nations Secretary-General’s Study on Violence against Children called on all countries to prohibit all physical punishment by 2009. In July 2005, the European Committee of Social Rights found UK law in breach of human rights obligations. It concluded: “...since there is no prohibition in legislation of all corporal punishment in the home, the situation [in the UK] is not in conformity with Article 17 of the Charter.” In their January 2006 joint statement, the UK’s four Children’s Commissioners called for urgent action, declaring “there is no room for compromise” on equal protection from assault for children. Perhaps this is an appropriate concluding statement: there is no room for compromise. (Charity/Voluntary organisation)

The vast majority of parents that I know support smacking. I have found that reasonable use of smacking, in love, has a positive effect on my child's conduct. My mother used to work on the maxim of 'a smack and a cuddle'. The smack was never rash or impulsive; the reason for it was explained and it was always followed by a warm embrace. It did the job. (Parent / Relative)

Academic research showing the positive benefits of smacking. The harm done by anti-smacking laws in Sweden. Parents have a unique relationship with their children and are best to admonish discipline as they see appropriate for their child, smacking is not always necessary in every situation. The benefit to parents is having the option to use varying methods of discipline depending on the uniqueness of both the situation and the child. To take away this form of discipline is wrong and irresponsible. The evidence of parents such as myself who, under the current law, are at risk of being stigmatised and harassed because I support the idea of moderate smacking as a legitimate, and Biblical, form of discipline. (Faith group)

I believe the following factors should be considered: The number of children who have been placed on the child protection register under the category of physical since s58 - is this comparable with prior to s58? The number of adults prosecuted and/or cautioned for physical offences against a child. The number of children removed from parents care as a result of physical abuse. Research across a broad spectrum of families - this could be obtained through Midwives, Health Visitors, Sure Start, Places of Worship (religious leaders) Families who are subject to Child In Need.... Whilst I recognise a child on [the child protection register] under the category of physical is not necessarily evidence of reasonable physical chastisement, but a more serious incident, it is likely that child has been smacked and this may have been an indicator of future risk of harm. Equally I recognise those who smack their children will not all go on to cause serious physical harm. (Social Worker)

I have not answered the remaining questions as I do not work in these areas. However I have replied to this consultation, as I am concerned that 1) the set of questions are not complete in that they cover how parents and children's

workers are affected but not how parents are able to 'correct' their children and could be helped in their parenting. I am not advocating 'heavy handed' punishment of children but I do not wish to see alterations to legislation which would make parents' job of bringing up their children more difficult than it is at present. It appears to me that it is rightly the intention of this consultation procedure to 'review' the present law, however my second concern is 2) that, those bodies that would seek to deny any form of correction by parents to their children, will bring great pressure to bear on this procedure (and thereby the government), to press for a complete ban on any form physical correction. I would totally be opposed to such a move as it would be a further backward step in this nation and totally remove any limits in training children. By their very nature, children seek to push the boundaries of what is acceptable to their parents and society. One has only to look at the reducing public behaviour of children and teenagers and the increasing number of 'asbos' issued, to see standards of behaviour are continually falling. A total ban on even the slightest 'correction' by parents, would be another step in the downward spiral of behaviour in our country (Parent / Relative)

This is a human rights and equality issue. So the prime evidence is the relevant human rights standards and formal recommendations to the UK; also the accelerating pace of prohibition across Europe. (Medical/Healthcare Professional)

There is no hard and fast evidence in my opinion of anything that can currently be said to have had any effect. Ordinary decent families should be left to get on with the job they are doing well, broadly speaking, without constantly being frightened and interfered with by the influence of organisations, who want to change society, on governments. (Parent / Relative)

1. The views of the vast majority of the public (because to impose a law which did not have acceptance would be to bring the law into disrepute). 2. The evidence from other countries that a ban on smacking coincided with a rise in child abuse. 3. Research showing the positive benefits of smacking. 4. Research on the damaging effects of psychological sanctions. 5. The complete lack of evidence that section 58 is necessary, let alone further restrictions. 6. Evidence of parents being bullied for their views and practice when they have been perfectly legal and good parents. (Parent / Relative)

1. Lynette Burrows, The Fight for the Family, Schofield & Thorburn, Child Protection: the voice of the child in decision-making (Inst for Public Policy Research, 1996) 2. Extract from a letter by the trustees of Parents Against Injustice, The Times 25.11.99 3. Children are Unbeatable alliance 4. EPOCH 5. NSPCC's FULL STOP campaign 6. J E Durrant (1999) Evaluating the success of Sweden's corporal punishment ban. Child Abuse 7 Neglect, 23, 435-448 7. J E Durrant (2000) A Generation Without Smacking: The impact of Sweden's ban on physical punishment. London: Save the Children. 8. R E Larzelere (2000) 'Child outcomes of nonabusive and customary physical punishment by parents: An updated literature review' Clinical Child and Family Psychology Review Vol. 3. No. 4 9. D Baumrind (1996). A blanket injunction against disciplinary use of spanking is not warranted by the data. Pediatrics,

98(4), 828-831. See also <http://www.families-first.org.uk/bp/childbill.pdf>  
<http://www.families-first.org.uk/art/sweden.pdf> (Parent / Relative)

Account should be taken of research into both the positive evidence of smacking together with evidence of harm done to children and the social fabric by, for example the ban on smacking in Sweden which has resulted in a sixfold increase in violence by children on children. The assumption that all smacking is physically abusive is an ideology which takes no account whatsoever of the context in which the smacking is administered. Many parents view smacking as an element (though not the most important one) of childhood training and discipline, not to mention protection and deterrence. Since children are not intrinsically good, they need help to set clear boundaries and the construction of a moral framework which helps them to distinguish between right and wrong. For most children at one time or another, smacking plays a part in helping them to grow up. Most parents at one time or another smack their children and it is clearly nonsense to suggest that all these children are abused. (Medical/Healthcare Professional)

Information on cases of cruelty from Safeguarding Boards. Information on prosecutions from CPS. Relevant information from [voluntary organisations]. (Charity/Voluntary organisation)

The experience and knowledge of those who work day-to-day and one-with-one with individual children and their families. (Other)

Look at those who have attended parenting courses where they are taught positive discipline and the huge positive impact this can have on family life. Don't human rights come into this? Our children are not there for us to control, as parents we are given the privilege of supporting, guiding, nurturing and preparing our children for adult life. Look at the evidence of the harm it causes them now and in the future. (Parent / Relative)

A thorough review of what parents actually want. However, this is made more difficult as there is such a climate of fear among parents that they tend to be economical with the truth when questioned about their use of physical restraint/discipline. This climate of fear is in turn unhelpful for child welfare. (Parent / Relative)

Evidence of the effects of any law forbidding physical punishment: (a) Increasing murders and crimes of all kinds. (b) Increasing anti-social behaviour among the young, causing whole communities to live in fear. (c) Bus drivers, fire-fighters, police, and teachers - all powerless to prove their authority. (d) Increasing anarchy. (Parent / Relative)

I feel that I am not in a position to comment on the technical side of section 58. Speaking as a parent I would say that children need the following, love, time, attention and discipline. If they are given only one or two of these then their upbringing becomes unbalanced. From my experience, corporal punishment should only be used as a last resort and after warnings have been given. For a balanced approach I feel that all four of these qualities

are needed. As a father of three children - some of whom have now started to leave home - I submit this observation as my contribution. I think that most families get the balance right but there are always exceptions. (Faith group)

United Nations Secretary-General's Study on Violence, European Committee of Social Rights - July 2005 - issued statement saying the UK was failing to comply with international legislation. And the various other UN committees which have said similar. Please be sure to differentiate scientific evidence from the anecdotal "I was hit and I'm ok" - the problem is that to condemn your own upbringing is understandably uncomfortable for many people. (Medical/Healthcare Professional)

Evidence that parents have suffered because of their support for moderate smacking. The harm done by anti-smacking laws in Sweden. Research which shows the benefits of smacking. Polls which show the majority of parents in favour of its use. The appeal to equality between parents and their children is based on a fallacy. (Parent / Relative)

1. An exposure of the fallacy of a key argument of the anti- smacking lobby: Many of those committed ideologically to ban all physical discipline say that because it is wrong for an adult to smack a fellow adult, it is wrong to lovingly chastise a child (they would say it is impossible for a parent to love a child and at the same time physically correct him or her). The child-parent relationship is not and cannot be the same as adult-adult relationships. A child-parent relationship is based on loving, caring authority on the part of the parent. The parent is always to act in the best interests of the child. A child is not capable of caring for him/herself or making wise decisions in his/her own interests. The child is in a position of trust and obedience to the wise, loving requirements of the parent. However, a child's trust should be childlike, not 'adult' in nature. In practice, the adult has to exercise greater responsibility and the child greater trust. The child will develop in responsibility as the years pass. To treat children as if they are co-equal adults in a partnership causes confusion and harm. Mutual trust and respect, although changing in dynamic as the years pass, should never cease. There are many things which it is appropriate and necessary for parents to do to and for children which would be inappropriate or even illegal for them to do to or for an adult. So simply to say "You wouldn't smack an adult so why smack a child?" is a false way of proceeding. 2. Scientific evidence which indicates positive benefits of physical correction. 3. Evidence of the harm done by anti-smacking laws in Sweden. (Parent / Relative)

In July 2005 the European Committee of Social Rights, monitoring conformity with the European Social Charter, found UK law in breach of human rights obligations. It concluded: "since there is no prohibition in legislation of all corporal punishment in the home, the situation (in the UK) is not in conformity with Article 17 of the Charter." (Medical/Healthcare Professional)

Unbiased, representative polls of parents consistently support the desire of parents to retain the right to discipline their children with reasonable chastisement. Is there any real evidence of benefit? How many Victoria

Climbie's would have been helped by this law? (Parent / Relative)

The views of children on this subject are important. Research carried out by [certain organisations] into the opinions of children on physical punishment found that far from making children remorseful and determined to change their behaviour for the better, smacking made children feel "angry and hurt", "unhappy, "grumpy and sad", "miserable", "scared" and "hurt inside". One child asked, "What is it teaching them?" and others said that smacking "doesn't resolve your problem" and "there are other ways to solve problems other than hitting and it doesn't do parents or children any good". The government should listen to the wisdom of children on the issue of physical punishment, as they are the only people in society who are subjected to it. (Individual)

The lack of specific awareness of section 58 beyond recognising that children can still be subject to physical abuse that is not deemed illegal. (Local Safeguarding Children's Board)

The fact that there are tens of thousands of families where the children are well adjusted in every sense and the parents use smacking as a means of discipline. The fact that there are a greater number of well adjusted adults who were smacked as children. Please don't treat smacking as being the same as assault – it just isn't. If smacking is outlawed, thousands of good parents will be criminalised: would it really be right to put the parents of happy children in prison just because they smacked them? It's hardly going to make the child feel better. (Parent / Relative)

What evidence is needed to say assault is not acceptable? Parents may say this is more nanny state government but isn't the governments duty to protect the vulnerable. Children need behavioural boundaries and positive parenting, not physical punishment which only instils in them the understanding that violence against others is acceptable. I know of no UK study looking at use of physical punishment on children with ASBOs compared to those without, but this would be interesting to perform. Evidence from the success of zero tolerance countries such as Norway and their rates of childhood mortality secondary to abuse can be used. (Medical/Healthcare Professional)

1. UN Convention on the rights of the child 2. Evidence from countries which have implemented legislation banning all physical punishment e.g. Sweden. (Medical/Healthcare Professional)

Opinion polls which show that the majority of parents support the use of moderate physical punishment as part of discipline. (Parent / Relative)

1/ Opinion polls show that the vast majority of parents agree with the use of moderate smacking as a form of discipline. Even of those who would not themselves use it, very few would choose to see parents criminalised for smacking. 2/ Extensive academic research. 3/ Anti-smacking laws in Sweden have resulted in increased rates of both child abuse AND child to child violence. 4/ The ignoring of the parent's unique relationship with their child, in

the way the anti-smacking lobby has appealed to the principle of 'equality'; It is a fallacy to say that just because it would be unlawful to do things to another adult, it is therefore unlawful to do them to our own child. There are MANY things we do to and for our own children that would be totally inappropriate to do to another adult. 5/ Anecdotal evidence from many parents who have been harassed or worse, by professionals, because of the parents' support for smacking as a form of discipline. 6/ The plain facts that there is no evidence that the defence of reasonable chastisement was being abused or that it was enabling cruel parents to escape prosecution, before the introduction of section 58, that it was rarely used at all, and that it did not prevent convictions for real abuse. 7/ In the few countries that do have anti-smacking laws, the legislation is not uniform, and enforcement levels vary, and there is no proper evaluation of effectiveness. (Parent / Relative)

The UN Secretary General's Study on Violence has called for the worldwide prohibition of physical punishment of children in the home, at school and everywhere else by 2009. I think it the government should see this as a serious aim and consider now the steps that are needed to take section 58 of the Children Act out of law, and replace it with a full prohibition on physical punishment of children. (Parent / Relative)

1. As far as I am aware there was an opinion poll conducted with 88% of parents wanting to uphold the law of reasonable chastisement. 2. Please look on the real effectiveness of countries who have introduced a non physical discipline law. I personally come from Germany and know that the law is a. widely unknown amongst the public b. people don't even listen and acknowledge it when you talk to them about it. 3. Are there any research papers on the harmfulness of a moderate smack? Not that I am aware of. I have seen on the contrary research done on the effectiveness of moderate physical discipline. [Certain charities] have these available. 4. Was the law on reasonable chastisement ever abused? Why change it? 5. My personal encounter mentioned [above]. Personally I have heard of two more cases of adopters being turned down because of their reluctance to say that they would not smack. Are the evidences not convincing that a lot of parents smack and have well balanced children who know their boundaries. (Parent / Relative)

UN Committee on the Rights of the Child United Nations Secretary-General's study on Violence against Children. European Social Charter. Statements from UK Children's Commissioner. (Faith group)

I am adding my voice to the many thousands of people, who, like me, think that it is totally unacceptable for children to be lawfully physically abused in the name of "discipline". I have been sponsoring three young African boys for the last 4 years now and have first-hand experience of the constant physical abuse that African children are subjected to, both in their homes and in the school environment. That type of abuse, as we very well know, is happening in British homes too. Thankfully, it has been lawfully banned from schools but that also is only a recent achievement. Firstly, children have an intrinsic right to being protected. They have been entrusted into our care, which does not

mean that we should have dominion over them due to their younger age, smaller bodies, and lack of knowledge. We, the children's carers, guardians or parents bear a very big responsibility to provide adequate guidance for our children. And the best way to do this is leading them by example and by maintaining an open and respectful communication with them. Physical abuse sabotages these vital lines of communication. Our children are losing out immensely by not being able to trust their carers to be their protectors and their source of wisdom and guidance. Children, like adults, have an unquestionable and intrinsic right to be respected spiritually, morally, mentally and physically. What message do we give them when we hit them physically to bend their will to ours? No one in their right mind should lament the fact that we live in an extremely violent society, when we are not even endeavouring to establish peace in our primary living environments that are our family. Children growing up with violence will readily use it themselves in their adult lives. That is without mentioning the fact that, whilst growing up with physical abuse, they go through a gamut of negative and destructive emotions that handicap them for their entire adult life, and hamper their capacity to form healthy relationships with themselves, with other people, their society and the world at large. Protecting children from corporal punishment is not just about sparing them a bruise or hurts feelings. It is also about knowing that we will be taking the whole of humanity towards a more peaceful future. Banning total corporal punishment of children has to happen now. As long as we, the carers of children, are incapable of getting our own emotions under control and opt to physically lash out at them, we cannot call ourselves totally civilised. We cannot with the same breath say that we love them whilst our other hand is raised, ready to strike for the smallest of infraction. Love and violence are mutually exclusive. I strongly believe that more support, guidance and reassurance should be made available to carers, to show them that a healthy discipline can be easily achieved without any physical violence whatsoever. People hesitate to give their support to a total ban of corporal punishment because they fear that without the threat of physical punishment, their children will turn into disobedient monsters. My sponsored children were disobedient and unruly whilst they were being physically abused. They became extremely cooperative, helpful and compassionate after physical punishment was totally banned from their lives. (Other)

Sixteen European countries have legislated to satisfy human rights obligations by giving children equal protection from assault: Austria (1989); Bulgaria (2000); Croatia (1999); Cyprus (1994); Denmark (1997); Finland (1983); Germany (2000); Greece (2006); Hungary (2004); Iceland (2003); Latvia (1998); Netherlands (2007); Norway (1987); Romania (2004); Sweden (1979); Ukraine (2004). In 2007 New Zealand became the first English-speaking country to give its children equal protection. (Italy has prohibited all physical punishment by Supreme Court decision and at least another six countries, including Spain and Portugal, are committed to equal protection). (Charity/Voluntary organisation)

I have spent a life-time studying and researching child development. I believe that non-violent methods of discipline, including rewards, are highly effective in producing socially acceptable behaviour and avoid all the negative effects

of physical assault. To try to define acceptable ways of hitting children still involves assault which is illegal between adults. (Other)

The wealth of literature that is drawn on by [certain organisations].  
(Medical/Healthcare Professional)

1. Opinion polls show that the vast majority of parents agree with the use of moderate smacking as a form of discipline. Even of those who would not themselves use it, very few would choose to parents criminalized for smacking. 2. Extensive academic research. 3. Anti-smacking laws in Sweden have resulted in increased rates of both child abuse AND child to child violence. 4. The ignoring of the parent's unique relationship with their child, in the way the anti-smacking lobby has appealed to the principle of 'equality'; It is a fallacy to say that just because it would be unlawful to do things to another adult, it is therefore unlawful to do them to our own child. There are MANY things we do for our own children that would be totally inappropriate to do to another adult. 5. Anecdotal evidence from many parents who have been harassed or worse, by professionals, because of the parents support for smacking as a form of discipline. 6. The plain facts that there is no evidence that the defence of reasonable chastisements was being abused or enabling cruel parents to escape prosecution, before the introduction of section 58, that it was rarely used at all, and that it did not prevent convictions for real abuse. 7. In the few countries that do not anti-smacking laws, the legislation is not uniform, and enforcement levels vary, and there is no proper evaluation of effectiveness. (Individual)

I would hope the review will be looking to the experience of those countries which have taken the lead in enshrining children's human rights within the law and seen significant reductions in parental abuse of children as a result. There must be a change to the law and a great deal more support for parents to learn how to provide their children with a safe and secure upbringing with clear boundaries using non-violent methods of discipline. It is very difficult for ordinary parents of all walks of life to learn when there is still so much confusion and the government itself lacks the courage to stand up for children's rights. (Parent / Relative)

Our LSCB would promote zero tolerance towards smacking. It is also accepted that by legislating against smacking that there is a risk more parents would fall foul of the law and come within the child protection net. With adequate publicity and comprehensive advice and support to parents (through the various parenting programmes currently supported in the Respect Programme) this could be avoided. Furthermore the consequences of over chastisement fall into the net of domestic violence. The local LSCB is working with schools and young people to prevent [domestic violence] by tackling relationship abuse/peer abuse and intrafamilial violence; it is incongruous to allow the smacking of children when clear messages are given to young people about the damage physical abuse can cause. The subject of parent/child relationships/boundaries and should become a priority within the PHSE curriculum and indeed be placed within the whole school curriculum to reinforce positive methods to manage children's behaviour both within the



home and in the community. (Local Safeguarding Children's Board)

Since smacking was banned in Sweden in 1979 there has been a 5-fold increase in physical abuse cases classified as criminal assaults. Furthermore, the number of criminal assaults on 7-14 yr olds, born since the smacking ban, has also risen 5-fold. What's more a [certain organisation's] report revealed that death rates of children due to maltreatment in the UK were almost identical with those in Sweden, and indeed none of the 4 countries with the lowest rates have a smacking ban. It is also pertinent that adult on adult violence is rising alarmingly. (Parent / Relative)

Far better to put time and effort into training new parents how to administer smacking properly in a reasonable way, so that they won't crack under pressure when their children get totally out of control (Parent / Relative)

The views of the UK Children's Commissioners, that children deserve protection from assault equal to that provided for adults should also be regarded as key evidence as part of this Review (Parent / Relative)

The clear message that violence breeds violence and hitting children merely teaches them that violence / terror of the individual is a possible solution for problems. Terrorism starts early in some families in the UK! If an adult who may be able to defend themselves was hit in the same way it would an assault. Why then do we still fail our children in this way? (Medical/Healthcare Professional)

In a large body of international research, no single study suggests that physical punishment does good but numerous studies suggest that it does harm. A meta-analysis considered 892 papers containing sufficient statistical data to allow estimation of effect, size and significance. The analysis indicated that while not all children experience long-term negative effects, overall the negative consequences of corporal punishment outweigh its seemingly positive short-term consequences and may have adverse effects on cognitive development and lead to an increase in antisocial behaviours. Today all adults, whatever their social class and standing now have acquired rights and equal status under UK law to protect them from assault. The legal treatment of assaults on children however has merely been modified and parents may rely on the defence of reasonable chastisement. This defence means that children are the only people in our society against whom it is permitted in law to perpetrate violence. It would now be unthinkable to seek to define tolerable levels of violence against women as we do children. No one would today suggest that a defence of 'reasonable chastisement' should be available to a defendant charged with common assault in any other domestic or family circumstance, yet we continue to accept that it is tolerable to hit children, who are smaller, more vulnerable and more at risk. Under the United Nations Convention of the Rights of the Child (UNCRC) the State is obliged specifically to protect children from "all forms of physical or mental violence", while in the care of parents or others. Corporal punishment is an obvious and often extreme breach of the child's right to respect for his human dignity and physical integrity. The way forward has been mapped out by the experiences

of other European states. If children are to be truly protected then the government must make clean and positive steps towards this through legislative reform. Not to criminalise parents, which is very unlikely in any event judging by the UK experience to date, but to communicate the message that legitimised violent behaviour towards children in the 21st. century must end as it has elsewhere. And prohibit in legislation any forms of violence against children as required by the European Social Charter. This would act as a powerful tool in accelerating the cultural shift in attitudes towards children and increase respect for both their needs and their human rights. Maintaining this defence is confusing to parents and professionals and does nothing to promote the welfare of children. (Medical/Healthcare Professional)

As I have answered the questions I have felt increasingly that the review will not make any real difference to children's protection through changes in interpreting or being educated about the current law. Children should be given the same protection from assault as adults. I am ashamed to live in a country which is not willing to sign up fully to human rights agreements of the United Nations and Council of Europe (Charity/Voluntary organisation)

Please refer to the evidence of the Children are Unbeatable Alliance. (Parent / Relative)

The whole thrust of Working Together 2006, ECM, Children Act 2004. This section is anomalous in this context. (Social Worker)

Comparative historical data looking at prosecutions for assault and registration data. (Local Safeguarding Children's Board)

The experiences of real people. my grandchildren have never been physically punished and are beautiful, well-behaved children, they would be horrified if someone hit them. A few weeks ago I observed a neighbour hitting his 14-year old around the head and the look on my grand-daughter's face was a picture. She could not believe that so-called civilised, educated people would behave in such a way. That young woman has no respect for her stepfather, whereas my grand-daughter loves her stepfather and has a positive, healthy relationship with him. She is no more perfect than anyone and of course they have their ups and downs, but I am very proud that they conduct their family lives without resorting to violence. Rates of domestic violence are increasing and particularly in disadvantaged communities where hitting children is the norm. (Other)

1. There should be proper research showing the positive benefits of moderate smacking. 2. There should be a review of court cases under previous law showing whether the defence of "reasonable chastisement" was being abused as a defence and failed to protect children who were being abused. This should be compared with cases under the present law to see whether parents are being unnecessarily criminalised or overcharged. 3. The failure of Sweden's anti-smacking laws should be looked at. It has led to an increase in child abuse and child-on-child violence. 4. Opinion polls showing the vast majority of parents support moderate smacking as an appropriate form of

discipline. 5. Considering that it is a fallacious argument to appeal to the idea of equality between children and adults to support anti-smacking. Other methods would be just as inappropriate for an adult to apply to another adult, such as sending a child to their room or "grounding" him/her. (Parent / Relative)

It should be seriously considered that Britain is multi cultural and multi faith but more than any other faith the mother faith of Britain is Christianity and on that basis it should be considered carefully and decided that if not for the whole community but for the Christian and who want to live by their moral laws should be allowed to do so. (Faith group)

It seems rather pointless to review whether or not the human rights of children should be respected or not. You cannot allow any section of society to violate some human rights but not others - and this applies equally to adults as it does to children. The government should do all it can to end this practice altogether to end the confusion once and for all. Then we can have a real debate about how to bring up children in morally responsible ways. It seems strange that a government which has done so much to improve the situation of children through Every Child Matters, with its five outcomes including children being safe, enjoying life and making a positive contribution, should find it so hard to end a practice which runs counter to these aims. Perhaps there should have been a sixth outcome, that every child's human rights matter. (Charity/Voluntary organisation)

Bluestone, C. (2005) Personal disciplinary history and views of physical punishment: implications for training mandated reporters. *Child Abuse Review*, 21:5 (May), pp.240-258. Looks at the ways in which personal experiences of being smacked at home affect a practitioner's perception of abuse in the homes of the people with whom they are working. Demonstrates that those with personal experience of being physically disciplined at home were shocked that, as professionals, they might be required to report behaviours that they considered normal. Willow, C and Hyder, T (1998) *It Hurts You Inside: children talking about smacking*. London: NCB. A consultation with children aged five to seven (the age group most likely to be victims of smacking) about their perceptions about physical punishment, and their personal experiences of being hit by their parents. This demonstrates that, while children relate physical punishment to being naughty, the severity of the punishment used is almost irrelevant; it hurts them and many of them want it to stop. (Charity/Voluntary organisation)

The key piece of evidence for politicians is that while a few will always defend corporal punishment of children, when a law is actually changed and it is abolished, opposition fades very rapidly. When corporal punishment in schools was abolished in Scotland, (where it was used heavily) mayhem was predicted. The measure went through -and soon became of no interest. A similar situation occurred in England. The first key factor to be considered in relation to the continuance of protection of corporal punishment in the home is the ready defence (and thus encouragement) it offers to the child abuser. Section 56 has done nothing to stop that. The second is, in a way, the

corollary. Section 58 muddies the water and prevents messages about positive, non-violent discipline getting through. Finally, it remains extraordinary that a country which prides itself on protecting the weakest from harm should allow the weakest group in society, our children, to be deliberately harmed. We need to remove any legal protection for such acts as soon as possible. (Other)

1. I have known families both professionally and privately. Two in particular refused any chastisement towards their sons, citing smacking as a child abuse. One boy kicked a youth to death and the other stabbed and mutilated a man and woman in a frenzied attack. 2. Two daughters from other families who were refused physical correction, and became used to the torrent of verbal abuse in its place, were also murdered. This in a quiet rural area. (Police/Legal Professional)

Willow, C & T Hyder (1998) It hurts you inside: children talking about smacking, London NCB Cutting, E (2001) It doesn't sort anything! A report on the views of children and young people about the use of physical punishment, Scotland Save the Children Horgan, G (2002) it's a hit, not a smack: what children think about being hit or smacked by adults, Belfast Save the Children Crowley, A & C Vulliamy (2000) Listen Up! Children talk about smacking, Cardiff Save the Children Nobes, G et al (1997) "Physical punishment of children in two-parent families", Clinical Child Psychology and Psychiatry, vol. 2, no. 2, pp.271-281. (Teacher)

The NSPCC urges the government to remove the defence of reasonable punishment, and give children equal protection under the law on assault. There is no other just and safe way to remedy the current situation. Seeking to issue guidance to clarify precisely how children can be hit is repugnant on moral grounds and fantastical on rational grounds, as it is not possible to define the subjective concept of 'reasonableness' in an objective way. (Charity/Voluntary organisation)

The Liberal Democrats call on the Government to: Introduce legislation to remove the "reasonable punishment" defence and thus give children equal protection under the law on assault. Accompany legal reform with comprehensive awareness-raising on children's right to protection and help for parents with positive forms of discipline." (Other)