

'Sdim Curo Plant!  
Children are Unbeatable!

# Why law reform to achieve equal protection for children is fundamental to promoting positive parenting

## JOINT STATEMENT BY:

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Family Lives

The International Federation  
for Parenting Education

The Family and Childcare  
Trust

Family Links

JIGSO

*The Children are unbeatable! Alliance includes more than 600 organisations and projects across the UK campaigning for complete removal of the “reasonable punishment” defence – the largest alliance ever formed around an issue for children; see full list at [www.childrenareunbeatable.org.uk](http://www.childrenareunbeatable.org.uk)*

### **Why law reform to achieve equal protection for children is fundamental to promoting positive parenting**

The Family and Childcare Trust, Family Lives, the International Federation for Parenting Education, JIGSO and Family Links are among many organisations involved in supporting families and children which believe that removal of the “reasonable punishment” defence to give children equal protection under the law on assault is long overdue\*. Other experts on parenting and early years in Wales including Professor Karen Graham of Glyndwr University and Professor Judy Hutchings of Bangor University agree with this position.

We see it as a necessary and urgent reform not just for children’s well-being and safety, but for the benefit of families and society at large.

The imperative for achieving this reform is one of human rights: to fulfil children’s right to full respect for their human dignity and physical integrity and to equal protection under the law. The UK is under very strong pressure from international and European human rights monitoring bodies to ban smacking. While the law continues to condone physical punishment, parenting education programmes and other efforts to encourage parents to move on to adopt positive, non-violent and effective forms of discipline are seriously undermined. And the safety of the minority of children whose parents still rely on violent punishment is compromised.

Law reform in itself is not enough: it has to be linked to public education campaigns in order to achieve real change in society's traditional acceptance of physical punishment. Some argue that we should wait for conditions and attitudes to change before introducing law reform, that a smacking ban would simply impose yet more stress on already vulnerable families. But children need protection now and should not have to wait, any more than women had to wait for men to be offered universal anger-management classes or full employment before they were protected legally from violence. And smacking does not relieve stress – quite the reverse. Parents who give up smacking invariably report improved relationships with their children and more productive responses to misbehaviour.

People sometimes express concern that banning smacking through removal of the “reasonable punishment” defence will lead to parents being prosecuted for “trivial” smacking. This does not happen in the case of trivial assaults between adults – there is the legal principle of *de minimis*: the law doesn't concern itself with trivial matters. Prosecution only goes ahead if it is in the public interest, and there is no public interest in prosecuting parents for “trivial” smacking. The threshold for investigation of assaults on children and for formal intervention in families won't change - as now, an investigation will only be triggered when there is reason to believe a child may be at risk of significant harm. Smacking is banned in 22 other European countries and the sky has not fallen.

We urge the Welsh Government to introduce the necessary legislation to make “reasonable punishment” history.

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## **Pam mae diwygio'r gyfraith i sicrhau amddiffyniad cyfartal i blant yn hanfodol i hybu rhianta cadarnhaol**

Mae'r Ymddiriedolaeth Teulu a Gofal Plant, Family Lives, Ffederasiwn Rhyngwladol Addysg Magu Plant, JIGSO a Family Links, ymhlith llawer o sefydliadau sy'n cefnogi plant a theuluoedd yn eu barn ei bod hi'n hen bryd dileu amddiffyniad "cosb resymol" er mwyn rhoi amddiffyniad cyfartal i blant o dan y gyfraith ar ymosodiadau\*. Mae arbenigwyr eraill ar fagu plant a'r blynyddoedd cynnar yng Nghymru, yn cynnwys yr Athro Karen Graham o Brifysgol Glyndŵr a'r Athro Judy Hutchings o Brifysgol Bangor, yn cytuno â'r safbwynt hwn.

Rydym ni'n ei weld fel diwygiad y mae ei angen ar frys, nid er mwyn sicrhau lles a diogelwch plant yn unig, ond er lles teuluoedd a chymdeithas yn gyffredinol.

Hawliau dynol sy'n gwneud y diwygiad hwn yn orfodol: cyflawni hawl plant i barch llawn at eu hurddas dynol a'u hintegriti corfforol, ac i amddiffyniad cyfartal o dan y gyfraith. Mae'r Deyrnas Unedig o dan bwysau sylweddol gan gyrff monitro hawliau dynol Ewropeaidd a rhyngwladol i wahardd smacio. Tra bod y gyfraith yn parhau i oddef cosb gorfforol, mae rhaglenni addysg magu plant ac ymdrechion eraill i annog rhieni i symud ymlaen i fabwysiadu dulliau cadarnhaol, di-drais ac effeithiol o ddisgyblu yn cael eu taseilio'n ddifrifol. Ac mae diogelwch lleiafrif o blant y mae eu rhieni yn dal i ddibynnu ar gosb dreisiol mewn perygl.

Nid yw diwygio'r gyfraith ynddo'i hun yn ddigon: mae rhaid cysylltu hynny ag ymgyrchoedd addysg gyhoeddus er mwyn cyflawni newid gwirioneddol ym mharodrwydd cymdeithas i dderbyn cosb gorfforol. Mae rhai yn dadlau y dylem aros i'r sefyllfa ac agweddau newid cyn diwygio'r gyfraith, ac y byddai gwahardd smacio yn rhoi teuluoedd sydd eisoes yn agored i niwed o dan fwy fyth o straen. Ond mae angen amddiffyniad ar blant nawr, a ddynlen nhw ddim gorfod aros, ddim mwy nag y bu'n rhaid i fenywod aros i ddynion gael cynnig dosbarthiadau ar reoli dicter neu gyflogaeth lawn i bawb cyn iddynt hwythau gael amddiffyniad cyfreithiol yn erbyn trais. Ac nid lleihau straen y mae smacio – yn wir, i'r gwrthwyneb. Mae rhieni sy'n rhoi'r gorau i smacio yn ddieithriad yn sôn am berthynas well gyda'u plant ac ymatebion mwy cynhyrchiol i gamymddygiad.

Weithiau mae pobl yn mynegi pryder y bydd gwahardd smacio trwy ddileu amddiffyniad “cosb resymol” yn arwain at rieni'n cael eu herlyn am smacio “dibwys”. Nid yw hyn yn digwydd yn achos ymosodiadau dibwys rhwng oedolion – mae egwyddor gyfreithiol *de minimis* yn golygu nad yw'r gyfraith yn ymdrin â materion dibwys. Ni fydd erlyniad yn digwydd oni bai ei fod er budd y cyhoedd, ac nid oes budd i'r cyhoedd yn sgîl erlyn rhieni am smacio “dibwys”. Ni fydd y trothwy ar gyfer ymchwilio i ymosodiadau ar blant ac ymyrraeth ffurfiol mewn teuluoedd yn newid – fel yn awr, ni fydd ymchwiliad yn cael ei sbarduno ond lle bo rheswm dros gredu y gallai plentyn fod mewn perygl o ddioddef niwed sylweddol. Mae smacio wedi ei wahardd mewn 22 o wledydd eraill yn Ewrop, a dyw'r wybren ddim wedi syrthio.

Rydym yn annog Llywodraeth Cymru i gyflwyno'r ddeddfwriaeth angenrheidiol i sicrhau mai i'r gorffennol y mae “cosb resymol” yn perthyn.

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