

Unlawful Chastisement

Cardiff Guidance

Updated: December 2024

Context

Prior to 21 March 2022

Physical punishment has been illegal in schools, children's homes, local authority foster care homes and childcare settings for some time. However, if a parent, carer or individual acting in loco parentis in an unregulated setting (e.g. part time places of learning, worship, play and leisure) was charged with common assault whilst looking after a child in their care, they could try to defend their actions by saying the punishment was reasonable.

From 21 March 2022

When Section 1 of the Children Wales Act came into force, it removed the defence of reasonable punishment. From this time all physical punishment of children has been illegal in Wales, including by parents, carers and anyone acting in loco parentis in any setting in Wales.

The legislation helps protect children's rights and sends a clear signal that physically punishing children is not tolerated in Wales.

Legislation & Procedures

The [Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Act 2020](#) makes physically punishing children illegal in Wales.

The removal of the defence of "reasonable punishment" means there are no grey areas; physical punishment is unequivocally illegal. In law, physically punishing a child is seen as common assault.

The law applies to everyone in Wales, including visitors and includes all types of physical punishment, including smacking, hitting, slapping, and shaking.

The [Wales Safeguarding Procedures Practice Guide](#) is aimed at practitioners working with children (up to the age of 18), their parents and carers or anyone acting in loco parentis.

For the purposes of this document, the term “Child” encompasses all stages of early human development, including:

- Unborn babies (foetuses)
- 0-1: Babies (infants, from birth to 1 year)
- 1-12: Children (toddlers and young children, from 1 to 12 years)
- 13-18: Young people (adolescents and teenagers, from 13 to 18 years)

Reporting

Members of the Public

In line with the Wales Safeguarding Procedures members of the public are advised that if they have concerns about an incident of assault on a child the report should be made as soon as possible to the Local Authority. ***If there are immediate concerns about a child's safety, they must contact the police.***

Practitioners

Relevant partners have a Duty to Report Children at Risk (Section 130) under Part 7 of the Social Services and Well-being (Wales) Act. Section 130(4) defines a “child at risk” as a child who:

- a) is experiencing or is at risk of abuse, neglect or other kinds of harm; and
- b) has needs for care and support (whether or not the Local authority is meeting any of those needs).

Practitioners should follow the safeguarding policy for the place where they work and discuss any concerns about a child with their Designated Safeguarding Lead. However, if it is not possible to contact this person for any reason the practitioner should report their concerns directly to the Cardiff Multi-Agency Safeguarding Hub (or the allocated Social Worker). Agencies involved with the child that have concerns that the child may have care and support needs, should seek parental consent to refer the child to the local authority Children's Social Services for an assessment of their needs.

If a child is in immediate danger or at risk of immediate harm, please call the Police on 999. Crimes can be reported by contacting 101 or [online](#).

Cardiff Multi-Agency Safeguarding Hub – 02920 536 400 (Office Hours) Cardiff Emergency Duty Team – 02920 788 570 (Out of Hours)
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Information Sharing

Information sharing is central to good safeguarding practice. It is essential for all relevant agencies to collaborate and discuss cases of unlawful chastisement together. Sharing information and coordinating efforts, ensures a comprehensive and effective response to protect the child's well-being.

One of the specific circumstances which provides for information sharing is to prevent abuse or serious harm to others. When information is not shared in a timely and effective way, decisions about how to respond may be ill informed which can lead to poor safeguarding practice and leave children at risk of harm. Our response to safeguarding issues should be proportionate, child centred and based on the individual needs and circumstances of the child.

Joint Working

The Police, Children's Services and Early Help should inform each other when they encounter cases related to unlawful chastisement. Cooperation between these agencies ensures a comprehensive, proportionate response and appropriate support for the child involved.

How will this work in practice?

Childrens Services (All Teams): Upon notification of an allegation of unlawful chastisement, should notify the Police Public Protection Unit via email (cardiffvale-ppu@south-wales.police.uk). It is helpful to include details of any actions already taken or being undertaken. If an urgent strategy discussion is required, follow usual processes.

For example:

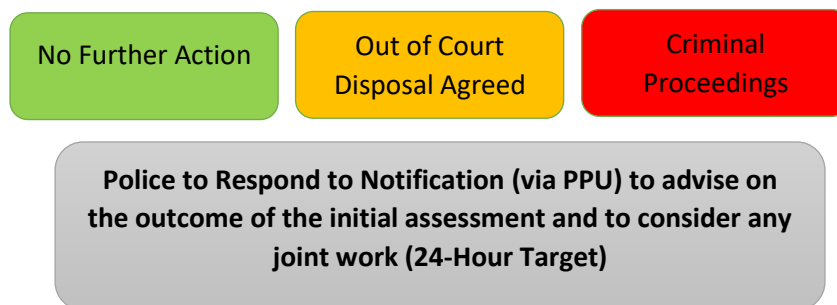
- *Parents have agreed to engage in parenting support and will be referred to Interventions Hub or Cardiff Parenting (please specify to which services a referral is being made and that engagement with Cardiff Parenting is voluntary.)*
- *The incident was low level and historic and there are no other concerns*
- *The allocated Social Worker has spoken to the child and no further disclosure was made.*
- *Multi-Agency Safeguarding Hub feel that a Well-Being Assessment is required and that this will be undertaken by Intake & Assessment.*

Public Protection Unit: Upon notification of an allegation of unlawful chastisement (via cardiffvale-ppu@south-wales.police.uk), the Police Public Protection Unit will record the crime. It will then be determined whether a criminal investigation is required. If one is required, at its conclusion, consideration will be given to Out of Court Parenting Support if the criteria is met (i.e. the parent has admitted to the offence under caution).

Consideration should also be given to referring into voluntary parenting support from Interventions Hub (LH - Intervention Hub Referral Form) or Cardiff Parenting (via the [Early Help Referral Form](#)), should this be applicable and proportionate in the circumstances.

NB: At all points in the process communication links needs to be maintained between agencies a multi-agency triaging meeting can be called if deemed appropriate.

Police Decision Making at Initial Assessment:



Decision Making

Upon notification of an allegation of unlawful chastisement (via cardiffvale-ppu@south-wales.police.uk), the child's level of need will be determined. This section may be used as a guide to determine whether a referral is required for Help or Harm and the associated level of need. If the concerns warrant a Level 4 response (strategy discussion) MASH will follow this process and includes all key partners. The initial assessment by Police will take place irrespective of the levels identified below and may meet the criteria for Out of Court Parenting Support:

<p>LEVEL 1</p> <p>Universal Needs: Babies children and young people whose needs are met by <u>universal services or a simple single-agency response</u></p>	<p>LEVEL 2</p> <p>Additional Support: Babies, children and young people who are at risk of poor outcomes and need <u>extra support from services</u></p>	<p>LEVEL 3</p> <p>Complex Needs: Babies, children and young people who meet the threshold for <u>Early Help or Statutory Assessment</u></p>	<p>LEVEL 4</p> <p>Acute Needs: Babies, children and young people who are in need of protection and require <u>intensive support - Strategy Discussion</u></p>
<p><i>Example:</i> A third-party allegation is made regarding a child.</p> <p>Further questions have been asked to establish a timeline and context and the child has been spoken to directly. No further concerns were raised, nor a history of concerns.</p>	<p><i>Example:</i> An allegation is made that physical chastisement is used by parents/ carers/ others.</p> <p>Further questions have been asked to establish a timeline and context. The parent/carer admits the use of low-level physical chastisement (e.g. slap on the bottom) as a means of discipline. The parent is seeking support around behaviour management.</p> <p>There is no history of safeguarding concerns.</p>	<p><i>Example:</i> An allegation is made that physical chastisement is used by parents/ carers/ others. The child could be vulnerable (e.g. additional learning needs or physical health needs).</p> <p>The child alleges this is an ongoing occurrence but there is no indication of injury or significant fear. Further questions were asked to establish a timeline and context. There is a history of safeguarding concerns and/or other social risk factors.</p>	<p><i>Example:</i> The child/young person has an injury (e.g. mark, bruise, scratch) and alleges physical harm.</p> <p>The child alleges physical harm with an implement (e.g. cable, belt, stick).</p> <p>The child may appear frightened in the care of (or the thought of being in the care of) the parent/ carer/other.</p>

Case Studies

**Identifiable information has been edited for anonymity*

These case studies show examples of referrals where referrals were made due to allegations of physical chastisement:

Case Study 1 - Oliver*

Referral:

Whilst colouring with teaching assistant, Emma, Oliver said:

- Mammy smacked me hard by here (pointed to left arm) and not stopping and then I was not mummy's friend.
- Mammy fight daddy and he was gone back home.
- Mummy didn't let me eat food, I was so hungry.

Action Taken:

Strategy discussion convened:

- Threshold had been met for a Section 47 Enquiry due to allegations of physical harm, potential domestic abuse and neglect.
- Oliver has talked about Mammy fighting Daddy - there is a history of Domestic Abuse. Parents are together.

Learning:

More information could have been obtained by the referrer, such as:

- Any wider context to the concerns, issues and strengths.
- How Oliver feels about his home life and how Oliver is getting on in school.
- What is parents' engagement with school like and are there positive people in Oliver's life.
- How does Oliver present in school, are there signs of neglect.
- Have any conversations been held with parents before around issues and how did they respond.

Case Study 2 - Sally

Referral:

- Sally said, "dad pulled my ear when I was 5".
- Sally has additional learning needs, aged 7. Sally does not have a good understanding of time.
- There was no injury and Sally did not appear worried or anxious to go home with mum

Action Taken:

- Father was spoken to prior to the strategy meeting and "minimised concerns".
- Mother has Autism and finds it difficult to notice cues, an example around play was getting too rough for example. Father states that this has happened before but does not happen anymore (there was a historic referral regarding rough play).
- Parents were happy to have support and would consent to a Well-Being Assessment.
- Due to concerns that mum had previously declined support and could later decline a Well-Being Assessment, a strategy meeting was convened and a Section 47 investigation took place.

Learning:

A Section 47 Investigation is disproportionate on the above, which was a historic concern. Threshold for significant harm not met and no rationale within the strategy discussion. There is a lack of trust in parents which seems oppressive as it is not based on evidence.

Case Study 3 - Amelia*

Referral:

A referral was made and Amelia told a member of staff that "mum smacks my bottom."

There were no other concerns stated and no further conversations had taken place.

Action Taken:

Strategy discussion convened and it was evident that no-one had contacted the parent to ask what had happened.

The parent was struggling and needed support. Had a conversation took place to establish the context. Mother would have been willing to engage with a Well-Being Assessment, if appropriate.

Learning:

Contacting the parent and referrer as part of the triage would have alleviated the need for a strategy discussion and Section 47 Investigation and possibly even a Well-Being Assessment in this instance.

This was a poor-quality referral and lacked sufficient information.

Case Study 4 - Ethan*

Referral:

The teacher in the class was working with Ethan and he, suddenly said, "Do you know my Dad slaps me". The teacher replied, "Does he? Why does he do that? Ethan replied, "Because I am naughty" so the teacher then asked, " What do you do when you are naughty?" to which Ethan replied, "I don't know" he then carried on with the activity and did not say anything else.

Action Taken:

Strategy discussion convened and a Section 47 investigation took place as it was not known if the child was injured:

- Two uniform police officers visited the 4-year-old.
- There was no evidence of any injuries.
- The child did not give any more information.

There was no further action.

Learning:

Earlier enquiries into whether there were any injuries, where the slaps take place and an exploration of what being naughty means for Ethan would have benefited. This further context would have alleviated the need for a strategy discussion and Section 47 investigation. Triaging with partners may have alleviated the need for a strategy discussion

We as partners need to pause, plan and consider the information fully, be clear on the steps we are taking and the reasons why. If parents aren't being contacted, as it would increase the risk, this needs to be documented within the rationale and an action set to reflect this. Children at significant risk of harm should always receive an urgent response.

Learning from Case Studies - what could have been done differently?

Referrer

More information could have been gathered from the child by the referrer, such as:

- **Where** were you at the time, where did it happen?
- **Where** did 'insert name' smack/hit/pull (using the child's words – no leading questions).
- If appropriate check for any injuries (*for example, if the child is claiming an injury which is not on a visible part of the body, it cannot be checked*).
- **When** did that last happen?
- **How** often does that happen?
- **Who** was there at the time, who saw this? (*what did they say?*)
- **What** was happening at the time of the incident?
- **What** happened next? (*what did the child say, what did the carer say?*)

The voice of the child should be captured and communicated using open questioning:

- How did you feel when that happened?
- How do they feel about going home? (*consider if they appear to be frightened / scared or are they saying they do not want to go home?*)
- What does the child's behaviour around caregiver show us? Do we see a warm and loving relationship or are there concerns?
- Do they feel safe at home? Who do they feel safe with?
- How does the child present, happy at home, demonstration of emotional warmth etc.
- If the child is worried, who would they tell?

You should always speak to your Designated Safeguarding Professional (or the PAL), regarding whether it is appropriate to speak to the parent. If advice is needed, please contact the Multi-Agency Safeguarding Hub (MASH) immediately on 029 2053 6490.

MASH

As a partnership we can improve our practice by:

- Speaking to the referrer to discuss the above
- Reviewing any Childrens Services history
- Advising the referrer of the actions they should take (i.e. they are able to go home or should be kept at school for example).
- Speaking to parents to obtain clarification on what happened and the context.
- Communicating what support can be offered.
- Establishing if the parent/carer is willing to work with services (informed consent needed).

It is important to understanding the wider issues, any other wider concerns, any risk factors and any other vulnerabilities.

A strategy meeting should only be convened if the child is likely to be at risk of significant harm or the threshold of significant harm is met. Information can be shared with MASH partners as part of triage 1, without convening a strategy meeting.

Support

Advice and support are available to encourage positive behaviour management without using physical punishment. In cases where the police offer an out-of-court disposal, tailored Out Of Court Parenting Support is available to prevent re-offending.

Out of Court Parenting Support is one of the diversionary schemes used by the Police to avoid criminalising people where the crime is either low level or a first offence.

The aim is to prevent parents being criminalised and taken to court and to support them in developing positive parenting responses that will have a positive outcome for parents (e.g. increased confidence, and well-being) and children (e.g. increased feelings of safety and secure attachment, improved wellbeing, reduced emotional and behavioural problems).

Support can also be offered by the Childrens Services Interventions Hub if the child is already open to Statutory Children's Services.

Non-Engagement

Out of Court Parenting Support: Should it be agreed that Out of Court Parenting Support is to be provided to the parent/carers but there is a subsequent lack of engagement. Non-engagement should be recorded by:

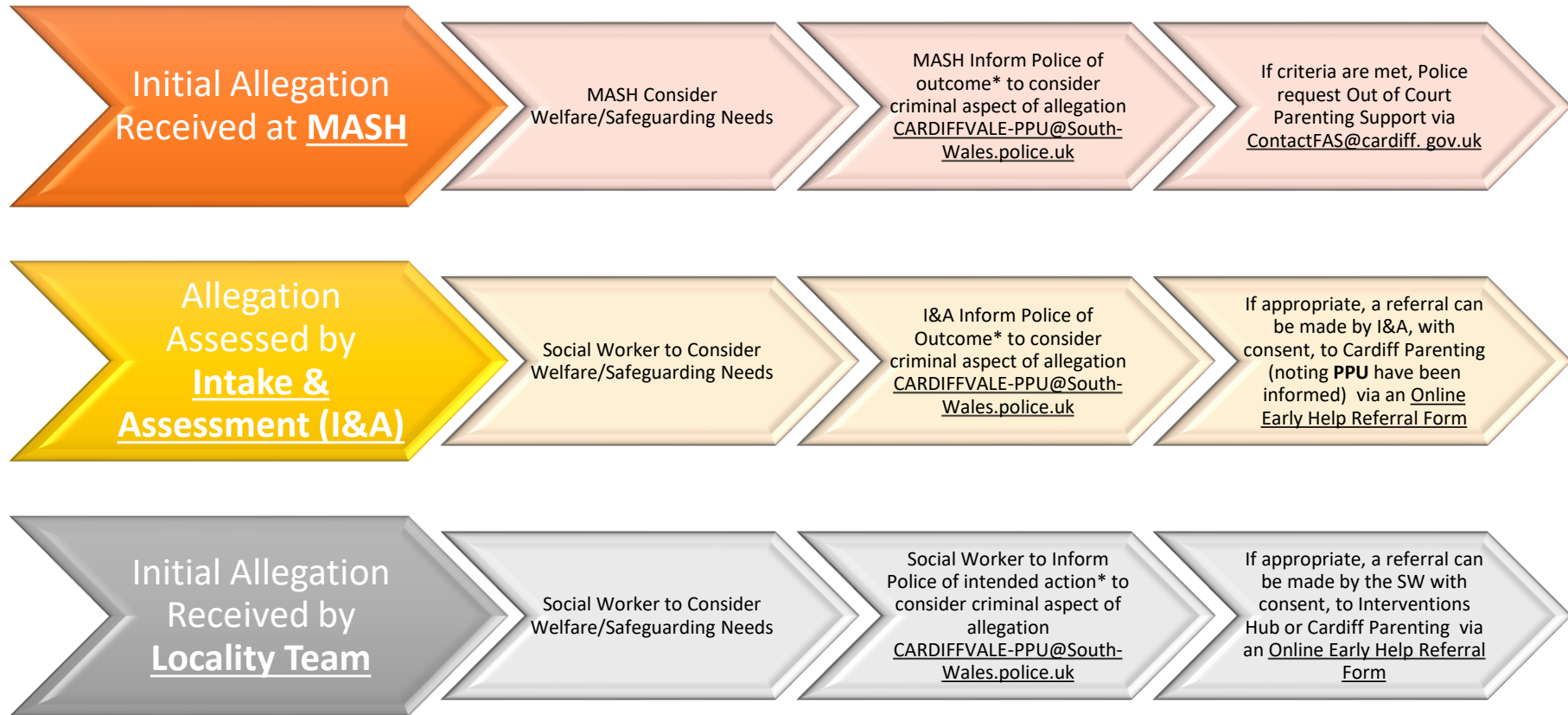
1. Cardiff Parenting adding an update to Parenting Records on Paris.
2. Cardiff Parenting notify the Family Gateway who will record on the child's CareFirst record.
3. Cardiff Parenting reporting back to the SWITCH Team in Police.

Voluntary Parenting Support: If a referral is made to Cardiff Parenting (not for Out of Court Parenting Support) where physical chastisement has been cited on the referral and there is lack of engagement then this should be recorded by:

1. Cardiff Parenting adding an update to Parenting Records on Paris.
2. Cardiff Parenting notify the Family Gateway who will record on the child's CareFirst record.
3. Cardiff Parenting should report back to the referrer with the reasons for non-engagement and the attempts made to engage.
4. Cardiff Parenting to contact the Family Gateway Manager to agree next steps. If there are still concerns about the family and a decision cannot be made, the MASH Team Manager or Principal Social Worker should be contacted.

Information Sharing

Referrals Made to Childrens Services:

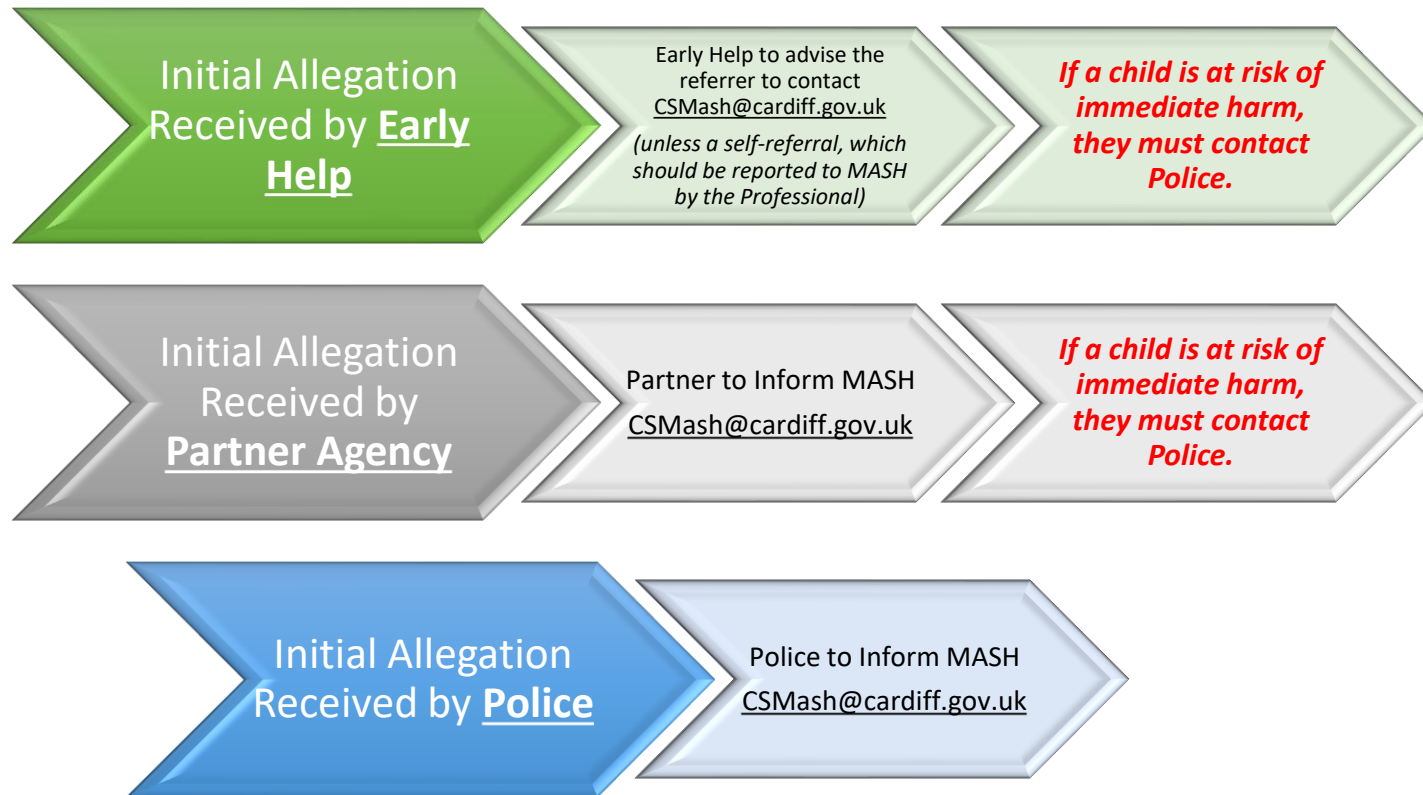


* When emailing the PPU, it is helpful to include details of any actions already taken or being undertaken E.g:

- *Parents have agreed to undertake voluntary parenting support and a referral has been made.*
- *The allocated Social Worker has spoken to the child and no further disclosure was made.*

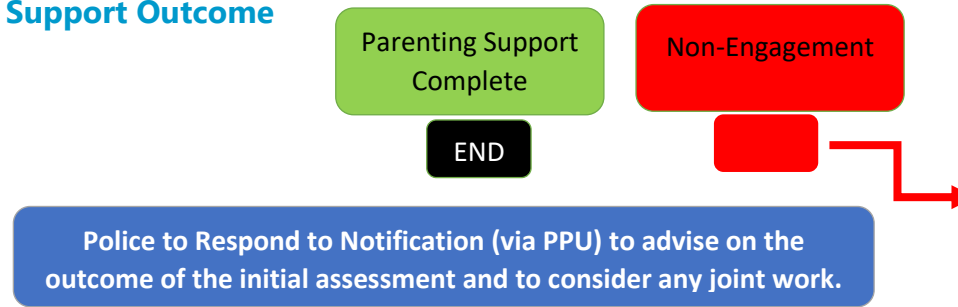
Upon notification of a crime of unlawful chastisement, the Police Public Protection Unit will record the allegation. Then determine whether a criminal investigation is required. Referring for out of court parenting support if the criteria is met.

Referrals Made to Partners:



Outcomes

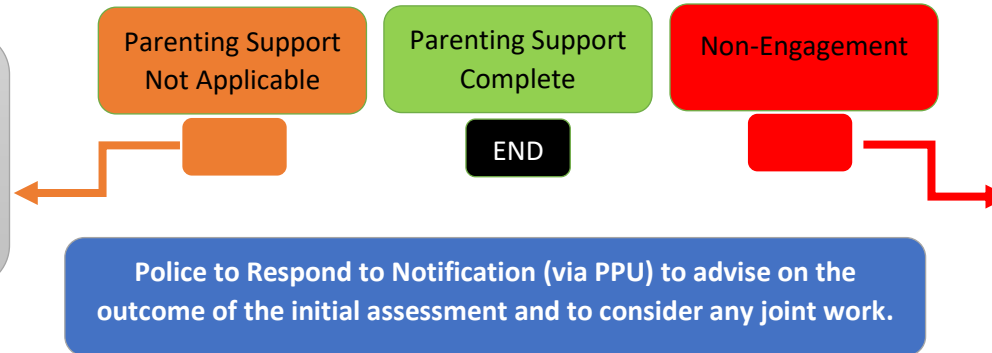
Out of Court Parenting Support Outcome



Final Checks made with referrer; then:

1. The Family Gateway record non-engagement on the child's CareFirst record.
2. Parenting adding an update to Cardiff Parenting Records on Paris.
3. Parenting reporting back to the SWITCH Team in Police.

Voluntary Parenting Support Outcome



Final Checks made with referrer; then:

1. The Family Gateway record non-engagement on the child's CareFirst record.
2. Referrer Informed

Final Checks made with referrer; then:

1. The Family Gateway record non-engagement on the child's CareFirst record.
2. Parenting adding an update to Cardiff Parenting Records on Paris.
3. Cardiff Parenting report back to the referrer with the reasons for non-engagement and the attempts made to engage.
4. Cardiff Parenting to speak to the Family Gateway Manager to agree next steps. If there are still concerns about the family and a decision cannot be made, the MASH Team Manager or Principal Social Worker should be contacted.

Frequently Asked Questions

What is Out of Court Parenting Support?

Out of Court Parenting Support is one of the diversionary schemes used by the Police to avoid using the courts, and therefore criminalising people where the crime is either low level or a first offence. Other examples of out of court diversions include drug and alcohol education/support services or victim awareness course for theft, damage, or Anti-Social Behaviour.

Out of Court Parenting Support is a diversionary scheme funded by Welsh Government to specifically work with parents/carers following an incident of physical punishment being used after the change in law following March 21st 2022.

The aim is to prevent parents being criminalised and taken to court and to support them in developing positive parenting responses that will have a positive outcome for parents (e.g. increased confidence, and well-being) and children (e.g. reduced emotional and behavioural problems). The aim of this work with parents is to reduce the use of physical punishment, reducing reoffending in the future which ultimately should have a positive effect on their longer term social and economic prospects.

How do parents access Out of Court Parenting Support?

Out of Court Parenting Support is only accessed by parents via a referral from the Police. If the Police receive a report that a child has been physically punished by an adult, they will investigate that report and decide what action to take, if any, based on the facts and individual circumstances of the case.

In all cases the police and/or Crown Prosecution Service (CPS) will apply two tests:

- Is there sufficient evidence for a realistic prospect of conviction?
- Is a prosecution in the public interest?

If the police decide to take further action (e.g., where there is sufficient evidence, and it is considered to be in the public interest) then they will determine the most suitable disposal that is appropriate to the circumstances and proportionate to the offence committed. This is when an Out of Court Disposal will be used and a referral into Cardiff Parenting will be received.

What will Out of Court Parenting Support include and how long is involvement?

The intervention provided by Cardiff Parenting is a bespoke intervention delivered on a 1-1 basis. It is 8 weeks long. It includes core elements outlined by the Welsh government below:

- Reasons why parent has used physical punishment.
- The change in Law.
- Research relating to positive discipline.
- Looking at triggers and supporting emotional regulation.
- Building a positive child-parent relationship.
- Developmental expectations and strategies for positive way to manage behaviour.

As well as a bespoke element tailoring to the needs of the family.

What other support is available for parents who use physical punishment?

The Out of Court Parenting Support is only accessed by parents via a referral from Police. In the event that a referral is not made for Out of Court Parenting Support, other support options are available:

- A referral could be made to Cardiff Family Advice and Support for Early Intervention and Prevention Services (referrals via the Family Gateway via [Early Help Referral Form \(cardiff.gov.uk\)](https://www.cardiff.gov.uk/early-help-referral-form)). This could include signposting or referral to a range of services.
- Cardiff Parenting offer a range of early intervention services which can be found here: [Cardiff-Parenting-booklet-2022 \(referrals via Family Gateway\)](#)
- A referral could be made to the Interventions Hub (if open to Statutory Children's Services)

Role of the Gateway

If a professional mentions an incident of physical chastisement after March 21st 2022, the Contact Officer should ask the professional to submit a MARF to MASH.

If a parent contacts the Gateway with a self-referral this would classify as a disclosure and it would be the duty of the contact officer to follow safeguarding procedures.

What is the role of Cardiff Parenting when receiving a referral?

If there is mention of an incident of physical chastisement after March 21st 2022 in the referral and no information about a referral having been made to MASH or email sent to PPU (and the outcome of this), then at Triage stage, go back to the Gateway Contact Officer and establish this.

If no referral to MASH has been made contact should then be made with the referrer to gather more information regarding this. Advise of change in law and that the referrer needs to submit a referral to MASH (or contact Police if there is immediate risk of harm) or if the referrer is in Children's Services, then follow the process to contact PPU.

What if there is an incident of physical punishment but Police are not involved? Can Out of Court Disposal be considered?

The only way to access Out of Court Parenting Support, Cardiff Parenting's intervention around physical punishment, is via Police through an Out of Court Disposal. This referral route is outlined in the funding guidance provided by Welsh Government. Our advice would be to liaise with Police directly to see if this can be considered as there is a duty to investigate and support parents to access this programme.

What is the difference between physical punishment and physical abuse?

There is not a simple distinction, and the context of the incident would be key in unpicking the line between unlawful physical punishment and physical abuse.

There are lots of types of physical punishment. It can mean smacking, hitting, slapping and shaking. But there are other types too. It isn't possible to give a set list of what makes up physical punishment because it can be anything where a child is punished using physical force.

Physical abuse is outlined within the [Wales Safeguarding Procedures Practice Guide](#) which is aimed at practitioners working with children (up to the age of 18), their parents and carers or anyone acting in loco parentis.

How do I find out about Out of Court Parenting Support?

More info can be found here: [Ending physical punishment in Wales | GOV.WALES](#)

Further queries around Out of Court or support for parents using physical punishment that have not been answered above can be directed via Cardiff Parenting on cardiffparenting@cardiff.gov.uk

Document Control

Approval

<i>Date</i>	<i>Version</i>	<i>Status (Draft/Final)</i>	<i>Name, Role & Organisation</i>
09/12/2024	1.0	Final	MASH Operational Management Group: <ul style="list-style-type: none">• Jade Harrison (Operational Manager) - MASH (CS)• Avril Hooper-Williams (Operational Manager) - Early Help (CS)• Matthew Osborne (Operational Manager) – Safeguarding & Reviewing (CS)• Sian Cadwalladr (Engagement Manager) – Education• Nick Howard (DI – Child Safeguarding) – Police Public Protection Unit

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