

Proposed Football (Strict Liability) (Scotland) Bill

Page 2: About you

Are you responding as an individual or on behalf of an organisation?

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

No Response

Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

I am content for this response to be attributed to me or my organisation

Name or Name of Organisation

Jeanette Findlay

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

[REDACTED]

Page 7: Your views on the proposal

Q1. Which of the following best expresses your view of the proposal to introduce strict liability for football clubs in Scotland?

Fully opposed

Please explain the reasons for your response

I oppose this proposed Bill on the grounds that a) I do not think there are particular problems in football grounds relative to other sports grounds or other places of entertainment which would justify legislation of this kind; football grounds are safe places to be and the 'violent, sectarian, macho culture' to which the consultation document refers is not one which I, who attends all home and away games of my team, recognise b) the principle of 'no liability without fault' is argued in the document to fall when there is an

Q1. Which of the following best expresses your view of the proposal to introduce strict liability for football clubs in Scotland?

'overriding public interest'. There is no overriding public interest here as the level of genuine offending is tiny and is far outweighed by offending in other venues/circumstances. The quote used in the document is irrelevant as the academic in question, Dr Rosemarijn van Kleef was actually referring to violence, which in the context of the European countries with which she is familiar, is a genuine problem - but not here in Scotland, whose football supporters she evidently is not familiar with.

The document sets out two conditions which would be required for legislation to be considered: that there is a problem and further tools are needed to deal with it and that clubs will not introduce strict liability themselves. I have set out my belief, a belief supported by all the relevant government statistics, that there is not a particular problem with football in Scotland and so I believe the first condition is not met. The second condition is slightly odd in that the case is made that one course of action must be taken and it will be either voluntary or mandatory. The efficacy or need for this course of action has to be established first and the consultation document fails to do that.

I am particularly concerned that the liability could be for, among other things: 'The use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are political, ideological, religious, offensive or provocative in nature'. I note that these are adopted from the procedures of one of the most corrupt organisations in the world and the reliance on them and suggestion that they somehow be incorporated into Scots law further undermines the arguments set out in the consultation.

The scope for wholesale assaults on the right of free speech, political expression and displays which represent culture or national identity, such as we have seen in relation to the Offensive Behaviour Act, is very wide: only in this case it would be the SFA which would decide what is offensive rather than the Police Service of Scotland. Anyone who cannot see what a minefield this would create is uninformed about the history of that organisation. I foresee endless legal battles, enriching only solicitors and providing endless opportunities for journalists, around what would be considered 'political' or 'offensive' should such legislation be introduced.

A further concern is the suggestion that liability would also cover incidents of failure to stay silent during the 'playing of national anthems'. I can think of many countries whose national anthems I would not care to respect or acknowledge and I do not think the owners of whatever stadium I am in should be responsible for my failure to do so. It is a breach of my civil right to take whatever view I choose on such occasions.

I note with alarm the potential clause which refers to 'Any other lack of order or discipline observed inside or around the stadium'. The consultation document does not outline what this might mean and one wonders if slouching, or walking with your hands in your pockets might be included. This is a prime example of the lack of clarity and the dangerous widening of scope which will ultimately defeat the Offensive Behaviour Act. To consider making the same mistake again would be very foolish indeed.

It is not clear from the consultation document how the matter of who is liable would be decided. Is each club to be responsible for its own support or for its own stadium for instance? How is it to be proved who is a supporter of which club. Short of having us tattooed I cannot see how this could be done with any degree of legal certainty. A voluntary agreement between member clubs regarding codes of conduct requires a certain standard of evidence - a statutory responsibility requires a standard of evidence which would be much harder to reach.

I believe this a foolish and childish reaction to the near-certainty that the Offensive Behaviour Act will be repealed and I am genuinely amazed at the inability of the proposer or his party to learn from the mistakes they made in enacting, and continuing to defend, that disastrous legislation.

Q2. Could the aims of this proposal be better delivered in another way (without a Bill in the Scottish Parliament)?

Yes (if so, please explain below)

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Please explain the reasons for your response

Notwithstanding my view that there is no genuine reason for any action; I contend that there is sufficient legislation in place to deal with any genuine criminality in football grounds or elsewhere. Furthermore, I content that voluntary private or community organisations, within the context of the existing legal framework, are perfectly capable, in principle, of running their own affairs without the necessity of intervention by Parliament.

Q3. What do you think would be the main advantages, if any, of holding clubs responsible for the behaviour of their supporters?

That responsibility is already held by clubs in terms of the existing legal framework ie like any other business they are responsible for the safety of their customers from any foreseeable threat or danger.

Q4. What do you think would be the main disadvantages, if any, of holding clubs responsible for the behaviour of their supporters?

See previous answers.

Page 11: Behaviours and sanctions

Q5. If there is to be a system of strict liability, which of the following behaviours do you think should be covered (choose all that apply)--

Please explain the reasons for your response

These are all covered by existing law and should be applied to the individual.

Q6. If there is to be a system of strict liability, which of the following sanctions do you think should be available (choose all that apply)--

Please explain the reasons for your response None - see previous answers

Page 13: Financial implications

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Football clubs	X					

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(b) Football supporters and other individuals	X					
(c) Scottish Government and public sector bodies (such as Police Scotland)	X					

Please explain the reasons for your response.

The cost impact on clubs is obvious. This is likely to be passed on to the paying customers ie football supporters. There will, I assume, be monitoring costs of any new legislation so that will be borne in some way by the public purse. There will also be a cost impact on civil courts I would assume.

Page 14: Equalities

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation?

Negative

Please explain the reasons for your response

I do not think the SFA is in any way suitable or qualified to make decisions on which banners, displays etc are 'offensive' without breaching the civil and human rights citizens either indirectly (via the impact on our clubs) or directly (if clubs seek to take action against supporters as a result). I am particularly concerned about the impact on my own religious and ethnic identity as a Catholic member of the Irish community in Glasgow. All of the evidence suggests that the SFA - and the current Scottish Government as it happens - are distinctly conflicted in relation to this matter. At best they are simply ignorant and, at worst, they are consciously or unconsciously biased.

Q9. In what ways could any negative impact of the proposed Bill on any of these protected characteristics be minimised or avoided?

No, and therefore it should not be implemented.

Page 16: Sustainability of the proposal

Q10. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

No

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Please explain the reasons for your response. See previous answers

Page 17: General

Q11. Do you have any other comments or suggestions on the proposal to introduce strict liability for football clubs in Scotland?

My comments have been made in full in relation to the first question.