

Proposed Football (Strict Liability) (Scotland) Bill

Page 2: About you

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

on behalf of an organisation

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".)

No Response

Please select the category which best describes your organisation

Commercial organisation (company, business)

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

Aberdeen Football Club

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

In this and our following comments, we are assuming that the strict liability being proposed is in respect of a Club's own representatives and supporters and specifically not the supporters of the other team. We are in any event opposed to the type of strict liability we are assuming but any proposal to extend strict liability to the supporters of the opposing team would in our view be catastrophic. Obligations to opposing supporters that Clubs have under existing regulations, to take all reasonably practicable steps to ensure

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safety, etc, will of course continue to apply. It is fundamentally wrong to penalise clubs for the behaviour of individuals over whom they have only a limited ability to exercise control. Clubs should be liable only if they have failed to take all reasonably practicable steps to plan for and deal with Unacceptable Conduct. That sets the bar at a very high level but if Clubs have met the requirement and are able to establish that they have done so, they should not have the consequences of the offenders' liability transferred to them – it is simply inappropriate and unfair for Scottish society at large to visit those consequences upon their Clubs, almost all of whom play an important role within their local communities and very few of whom are capable of bearing additional financial burdens and potentially material, non-fault based penalties. Strict Liability has not resulted in a reduction in the number of incidents in UEFA competitions where, specifically, pyrotechnics have been a huge issue. These continue to be smuggled into football matches despite the high security surrounding these games. The cost of this security is massive and, rather than punishing the teams concerned (unless they are found to have fallen short of the requirement to have done all that is reasonably practicable), it is the small minority of offenders that we need to concentrate on – by introducing more rigorous and mandatory measures designed to identify them and by increasing the football and criminal sanctions capable of being used against them. Scottish fans both at club and international level are amongst the best-behaved in Europe. Further the security expertise at Club and National level means that Scots play a prominent role in security at major UEFA and FIFA matches. These individuals have come from both a policing and Club background. Given their relevant practical experience and knowledge, their views should be taken fully into account.

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)

Please explain the reasons for your response

The SFA Articles and the SPFL Rules were revised to introduce much tougher regulations on Unacceptable Conduct ("New Rules") for the 2016/17 and subsequent seasons. The SFA and SPFL worked together on these changes thus ensuring that the New Rules cover all senior domestic competitions including the domestic leagues, Scottish Cup and League Cup competitions. Third party input and advice was sought and included significant input from Scottish Government officials. The unanimous approval of these New Rules by SPFL and SFA member clubs demonstrated the commitment to ensure that Unacceptable Conduct is addressed. The changes adopted were further enhanced by the guidelines issued to all SPFL member clubs on Unacceptable Behaviour following the adoption of the New Rules. We fully support that Clubs must take all reasonably practicable steps to address issues of Unacceptable Conduct as required by the New Rules. Given these changes have only just been introduced we believe it is premature to introduce legislation. The impact and effects of the New Rules have still to be assessed. We are aware that the SFA and SPFL will be meeting with Scottish Government officials to discuss how best to do this in an open and transparent way.

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

Under the New Rules Clubs ARE held responsible for the behaviour of their supporters unless they have taken all reasonably practicable steps to deal with the issue.
Further, individuals who engage in conduct which is or would be likely to incite public disorder at football matches are criminally liable under section 1 of The Football and Threatening Communications (Scotland) Act 2012.

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

This is not relevant as Clubs are already responsible if they have failed to take all reasonably practicable steps. The main disadvantages of imposing strict liability are (1) an inherent unfairness (see comment 5 above), and (2) ineffectiveness, by comparison with a combination of the tougher regulatory regime reflected in the New Rules and enhanced measures and sanctions targeted at the individual offenders.

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

The New rules cover all the above behaviours and class them as Unacceptable Conduct.

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

The New Rules enable the SFA and the SPFL to impose on Clubs any or all of the above sanctions.

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 costneutral	Some reduction in cost	Significant reduction in cost	Unsure

(a) Football clubs	X					
(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. (a) Football clubs From our Club's perspective, the New Rules have resulted in some increase in costs. Strict Liability would likely mean some further additional costs. However, we are aware that the changes for most senior clubs have been significant from the perspective of the cost base they operate under. At a time when income is under real pressure the introduction of Strict Liability could result in some senior clubs being unable to operate. (b) Football supporters and other individuals We believe that the clear majority of senior clubs would pass on a large proportion of the additional costs to football supporters in terms of price increases. This, to deal with a very small minority would likely result in reduced attendances and a

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

downward spiral. (c) Scottish Government and public sector bodies (such as Police Scotland) - no comment

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?

Neutral (neither positive nor negative)

Please explain the reasons for your response

The New Rules cover equality in detail therefore Strict Liability would have no impact on this key area.

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

As indicated we believe any Bill would have no positive or negative impact on equality.

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?

Unsure

Please explain the reasons for your response.

We believe that there could be a risk of negative social impacts if some senior clubs come under severe financial pressures as a consequence of the proposed bill. As a Club, we strongly believe that senior clubs have a major responsibility to deliver wider benefits to their communities and there is a risk that this proposed bill could impact on their ability to carry out this important role.

Page 17: General

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

Underlying our response is a desire to ensure that senior clubs do all they can to work towards the elimination of Unacceptable Conduct at matches.
The Club are aware that the SFA and SPFL are meeting to discuss how they can best work with the Scottish Government Senior Officials to assess how effective these New Rules have been over a suitable

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time period.
We strongly believe as indicated that it is premature to introduce this proposed bill until after this assessment. If this assessment suggests further enhancement to the New Rules we believe it is appropriate to allow the SFA and SPFL, as the sport's governing bodies, to make those changes .