

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

Representative organisation (trade union, professional association)

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

Scottish Football Supporters Association (SFSA)

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?

Partially Supportive

Please explain the reasons for your response

We entirely support the spirit and intent of the move towards strict liability, and see no general reasons why Scotland should not move in this direction, in combination with a number of reforms necessary to 'Transforming Scottish Football' as set out in the 2016 SFSA Manifesto presented to MSPs and Scottish MPs at both Holyrood and Westminster, and sent to the football authorities. In principle, we would wish to see liability accepted and implemented through responsible, testable, monitorable and publicly

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

accountable self-regulation by clubs, in direct collaboration with supporters and with the backing and support of SFSA as the national fans organisation. However, we recognise that there has been regrettable resistance to this and we acknowledge the need that has impelled this Bill and its overall desirability in order to initiate and gear clear action rather than a culture of avoidance or blame-shift. For reasons set out in this submission, we believe that the outcome of this consultation may lead to learnings and perspectives which make one further consultative exercise, which SFSA would be happy to be involved with, necessary - to ensure that there is one last chance for at least partial self-regulation, and to ensure that the current proposed legislation is enhanced and refined in the best possible way to achieve its intended outcomes. That is the qualification which has led us to specify 'partially supportive'. In intent and desired outcome we are fully supportive. In framing our response, we have talked informally to fans across the game with a variety of views on strict liability. We also engaged in more depth with one particular fan group. Our perception as a national fans organisation, based on wide experience and reflection, is that the majority of fans would prefer to see self-regulation and the avoidance of way is characterised as 'government interference' as far as possible. However, when drilling down to the detail, many of not most can see the benefits of the current proposed legislation. To those who oppose statutorily enforced and underpinned liability, we would point to the lessons in England and elsewhere in Europe, which show that the dire warnings and consequences some have allude to are not supportable by evidence.

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

Unsure

Please explain the reasons for your response

At all stages in the process of moving towards legislation of strict liability, which evidence so far from England and from other parts of Europe can be adopted and implemented without deleterious consequences, there should be the attempt to encourage and frame the highest level and proportion of self-regulation, underpinned by statutory action as required. We share a wider concern about the lack of willingness for action and responsibility by some within clubs and the football authorities, but continue to believe that incentivised self-regulation is always the best outcome, can be incorporated in a legislative underpinning process, and should only be abandoned as a last resort. Only in this sense that further consultation may be required (to improve not delay action) do we tick the 'unsure' box. We are not unsure that action needs to be taken. At every point along the way it is the roaming and content of that action that requires maximum possible scrutiny for maximum effectiveness of outcome and the mitigation of foreseeable unintended consequences.

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

As elsewhere in Europe, this would require and necessitate a far closer and better relationship between clubs and supporters, the involvement of supporters in regulatory and improvement/enhancement processes, and the incentivising of the great majority of decent, law abiding and non-discriminatory supporters to act responsibly with clubs and the public authorities against socially and criminally damaging behaviour by a minority.

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

Our concern would be any disproportionate and punitive effect on smaller professional clubs in particular, or the perception that certain groups and behaviours are being targeted disproportionately in relation to others. Good cooperation and communication can reduce and minimise these dangers.

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)--

The invasion or attempted invasion of a field of play

The lighting of fireworks or any other incendiary objects

Violent or threatening behaviour

Acts of damage

Disorder in or near the stadium

Please explain the reasons for your response

Strict liability, or an equivalent satisfactory system of self-regulation of demonstrable equivalent quality of outcome, should cover major acts of disorder, violence, damage, threat and hatred. It is reasonable that minor (though not un-serious) offences by individuals should be handled by the usual police and court action - with consequent and cumulative action by clubs against individuals resulting from the responsible action of clubs and supporter groups. That is, strict liability should in the first instance cover all major incursions and actions, combined with club-determined action on minor infringements. Any legislative enforcement, as necessary, should be extended by revision and enhancement on the basis of an evidence based approach to implementation and the realisation of desirable outcomes.

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)--

Warning/reprimand

Fine

Ban on selling tickets to supporters for away matches

Match-specific penalties (e.g. annulment of result; requiring a match to be replayed; forfeiting a match)

Competition-specific penalties (e.g. deduction of points; withdrawal of title; disqualification/exclusion)

Partial stadium closure (i.e. certain sections of a stadium closed to fans)

Playing of a match in a neutral stadium

Restriction on the number of players that a club may register for participation in SFA competitions

Community action (e.g. education programmes, working with local schools)

Please explain the reasons for your response

Penalties should fit as closely to the misdemeanour as possible, ensuring that those responsible are targeted. They should not imperil the continued existence of a club, and as far as possible should not

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)--

punish decent, law-abiding fans. Our preference should be that the playing of matches behind closed doors should be avoided as far as possible, since this has a deleterious impact on the performance of the game and punishes supporters indiscriminately, for example. We would like to see a further period of consultation, based on subsequent legislative intent, by which supporters can be engaged on implementation of a strict-liability policy. The national supporters' body, the SFSA, can assist in such consultation with clubs and supporters.

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.

Good implementation, with consultation, should lead to improved relations between clubs, supporters and individuals, and the statutory authorities. Football is part of society, and the social costs of the attempt to regulate and improve social behaviour to the benefit of all should be carried out in such a way that costs are shared. It would be irresponsible to assume no additional costs for implementing a liability scheme, whether by self-regulation or legislation. However, lessons can be learned from other European countries in this and other regards. We would want to avoid additional costs to ordinary supporters as far as possible, while involving them in the process of improving and dealing appropriately with misbehaviour. This is because supporters are also subject to costs generally deemed as disincentives to attending the live game in Scotland, and we believe that increasing and broadening the base of support, particularly through family friendly policies, is a way of improving atmosphere and behaviour within the game. Requirements imposed on clubs, especially smaller ones, should be matched wherever possible by support for their endeavours. (In the long run we think that costs can be reduced or prove cost-neutral, while in the short-run there may be additional costs to bear.)

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?

Positive

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?

Please explain the reasons for your response

We would see that clubs, supporters and the statutory authorities working together in dealing effectively with violence and disorder (with staged legislative backing as necessary) will improve the experience of all supporters, but especially those who are sometimes targeted for abuse and violence as a result of characteristics perceived through, or disadvantages by, discrimination and hatred.

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

Any Bill, including the one currently framed, should be drafted in a way as to ensure the best possible outcome for the people effected by it, especially disadvantaged and discriminated against groups. SFSA is happy to be consulted on further specifics.

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?

Yes

Please explain the reasons for your response.

Again, lessons from elsewhere in Europe can be learned, and it may be that issues, possibilities and learnings from this contribution may contribute to a further desirable consultation period around specific decisions arising from the current process. We believe that 'getting it right' as far as possible is key, along with participation and evidence. This is one of the lessons of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

Page 17: General

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

In addition to the foregoing comments, our overall comment and suggestion is that any effective action to reduce and eliminate disorder, violence, criminality and hatred in Scottish football (which we still recognise to be minority behaviours blighting the experience of the vast majority of fans and individuals) will ultimately depend for its success on the engagement, involvement and consent of fans themselves. This is a principle all should accept and act on, both in relation to legislation and to self-regulation and the best possible combination of the two as needed. In particular, we as the Scottish Football Supporters Association (SFSA) have been proposing in conversations with the Scottish Government and to others of experience within the game at all levels, that 'policing by and with community consent' is vital for the future: fans, clubs, stewards, the police and community/public authorities working together to develop fresh and innovative and reformable ways of handling actual and potential situations of conflict and disorder. We would like to see specific, small-scale funded experiments in implementing such collaboration at grassroots, galvanised by supporters, from which wider lessons can be learned. These would include learnings from the principles and action of restorative justice techniques. The SFSA is in a position to help coordinate such necessary and beneficial experimental developments, and to bring the

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required expertise on board, along with the involvement and support of the widest cross section of Scottish fans. We hope such proposals can be seen in relation to the intent and spirit underpinning the proposed Football (Strict Liability) (Scotland) Bill, as well as learnings from problems associated with the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.