

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

Celtic 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.



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

Celtic Football Club is fully opposed to the proposal to introduce strict liability for football clubs in Scotland for the behaviour of supporters at football matches. It is necessary first to address the context. While Celtic recognises the importance of the issues raised in the consultation, and does not in any way seek to trivialise, accept or justify the nature and impact of some of the behaviour experienced in Scotland, it believes that those individuals

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

who engage in unacceptable conduct at football matches represent a tiny minority of those that support football in Scotland.

By way of example, in season 2015/16, over 860,000 supporters attended matches at Celtic Park. During that season, there were 12 arrests within Celtic Park, representing around 0.0014% of attendees. During the same season, the Report for the Scottish Government on charges reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 in 2015-16 confirms that there were fewer than 5 charges arising from incidents at Celtic Park, representing around 0.00046% of attendees.

The proposal to sanction a football club, and by extension the vast majority of its supporters, for the behaviour of a very small proportion of individuals engaging in unacceptable conduct where there is no fault on the part of the club or the majority of its supporters is fundamentally unfair to the club and those supporters. Such an approach ignores the intentions and efforts of clubs and the majority of supporters to address unacceptable conduct; it punishes parties not responsible for the conduct complained of, rather than the individuals responsible.

The proposal is unnecessary. Following a long process of consultation and engagement among clubs, the football authorities and the Scottish Government, the rules of the SFA and the SPFL contain detailed provisions regarding unacceptable conduct and the responsibility of clubs for the conduct of its supporters. The rules are set out in the responses to the consultation for the football authorities. By operation of these rules, clubs are required to take all reasonably practicable steps to prevent unacceptable conduct at football matches. Celtic takes significant steps to do so, as do other football clubs in Scotland. In addition, there is a range of legislative measures applying to the conduct of individuals at football matches, which hold the individual responsible to account. For example, the Report for the Scottish Government on charges reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 in 2015-16 confirms that there were 287 charges under section 1 of the Act, which deals with football related offences. Further, clubs take steps to address the conduct of individuals at matches. Whilst the goal should be to eradicate unacceptable conduct, such statistics suggest that current rules of the SFA and SPFL and legislative framework are having an effect.

The proposal is disproportionate. Given the small proportion of individuals who appear to be involved in unacceptable conduct, the imposition of strict liability on clubs and their supporters is not justifiable.

The system of strict liability proposed is ineffective and counterproductive. The consultation does not put forward, and the Club is not aware of, any evidence to suggest that strict liability is an effective means to prevent unacceptable conduct or to improve supporter behaviour. The UEFA system referred to in the consultation is effective in imposing sanctions on clubs, but there is no evidence whatsoever that it is an effective deterrent or is effective in addressing the underlying issues. As noted below, there are examples where strict liability can encourage unacceptable conduct and disincentivise clubs from investing in managing the issue. On the other hand, the current system employed by the SFA and SPFL encourages clubs to proactively address unacceptable conduct, including educational programmes.

Background and Information on Celtic Football Club

About Celtic Football Club

This response is made on behalf of Celtic Football Club. Celtic Football Club is a member of the Scottish Football Association Limited ("SFA"), the governing body of football in Scotland, and a member club of the Scottish Professional Football League Limited ("SPFL"), the owner and operator of the Scottish Professional Football League competition. Celtic Football Club is operated by Celtic plc, a public limited company registered in Scotland, which is a shareholder in the SPFL. Celtic Football Club is also a member club of the European Club Association, a body representing the interests of football clubs within UEFA. Celtic Football Club was founded in 1888 with 2 main aims. The first was to raise funds to provide food for the poor of the East End of Glasgow. The second was to use football as a vehicle to improve social integration and reduce friction between the growing Irish community in the East End and the native Glaswegian population. The Club is proud of its Irish links and heritage. Its business is run on a professional basis, with no political agenda. It recognises its wider role and responsibility as a major Scottish social institution promoting health, well-being and social integration. Its aims remain consistent with those on which it was founded and it seeks to maximise opportunities to disassociate the Club from discrimination, sectarianism and bigotry of any kind and to promote Celtic as a football club for all people regardless of gender, age, religion, race or ability. Celtic Football Club does not tolerate unacceptable conduct at any match in which it is involved.

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

The Club is committed to ensuring, so far as is reasonably practicable, that its supporters do not engage in unacceptable conduct at any matches involving Celtic. The Club recognises the importance of this issue but has significant concerns regarding the proposed 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)

Please explain the reasons for your response

Celtic Football Club believes that the reduction of unacceptable conduct at football matches is best achieved by effective engagement among football supporters, clubs, football authorities, police authorities, local authorities and government. Communication and education are of fundamental importance. Such engagement, communication and education are encouraged by the current system employed by the SFA and SPFL, which the Club considers better delivers the aims of the proposal. The engagement, communication and education necessary to improve the situation in Scottish football are not consistent with the strict liability system proposed in the consultation, which would punish clubs and the majority of their supporters regardless of their intentions and actions. In its ongoing engagement with the football authorities and the Scottish Government, the Club has proposed the development of the role of the supporter liaison officer in Scottish football. There is good evidence, both in the Club's own experience and based on evidence of the development of the role in other countries, that the role of the supporter liaison officer has a crucial part to play in the management of, and improvement of, supporter behaviour. The Club considers that developments such as this will better assist to reduce unacceptable behaviour at football matches than the system proposed. Where incidents do occur, those individuals responsible should be subject to sanction, rather than those who are not liable for the behaviour in question. The current legislative framework already permits the Police authorities to do this. Further, Celtic has taken, and shall continue to take, action against supporters identified as having been involved in unacceptable conduct. This has included excluding individuals from attending matches at Celtic Park and taking action in the Scottish Courts to seek orders preventing individuals from attending matches involving Celtic in Scotland. That process could usefully be simplified by permitting clubs to apply for temporary or permanent banning orders against individuals established to have been involved in unacceptable conduct.

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

Celtic Football Club considers that questions 3 and 4 in the consultation may be misleading. Under the current system operated by the SFA and SPFL, clubs are already held responsible for the behaviour of their supporters. A club can only avoid that responsibility if it can demonstrate that it has taken reasonably practicable steps to prevent the unacceptable conduct in question occurring. The system addresses a wide range of conduct, and the sanctions available to the football authorities are flexible and meaningful. The system also provides detailed guidance for clubs regarding reasonably practicable steps to prevent unacceptable conduct.

Assuming that the consultation questions relate to the merits of the imposition of strict liability in football, Celtic Football Club does not consider that there are any advantages to the strict liability system.

On the contrary, there are significant disadvantages to the strict liability system in football. The European Club Association is actively leading a dialogue with UEFA seeking to change the UEFA strict liability system, to which the consultation refers.

A strict liability system in football is open to abuse by individuals, who can use it to attack their own club or another club, by deliberately entering the stadium, either in the home or away support, with the purpose of engaging in unacceptable conduct and creating liability for the club in question. Rather than having a deterrent effect, strict liability may therefore encourage unacceptable conduct. Rather than sanctioning the individuals responsible for unacceptable conduct, strict liability increases the influence that these individuals can have on football in Scotland. The rationale for the adoption of strict liability by sports governing bodies advanced in

Q3. What do you think would be the main advantages, if any, of holding clubs responsible for the behaviour of their supporters? the consultation, based on Dr van Kleef's research, is that the governing body does not have a direct legal relationship with supporters and that, therefore, sanctioning clubs is the only means for governing bodies to try and prevent disturbances. The logic of this rationale is flawed. First, it assumes that a club will always have a direct legal relationship with an individual attending a match. That will not always be the case, for example where the individual obtained tickets from the other club or where the individual accessed the stadium unlawfully. Further, the individuals engaging in unacceptable conduct are in many cases risking individual criminal sanction and this does not deter them; it is unclear, therefore, how the risk of a club being sanctioned would in fact deter such individuals, or enable clubs or clubs' supporters to dissuade them.

Further, a strict liability system in football would dis-incentivise clubs from investing in positive measures to address unacceptable conduct through engagement, communication and education. If sanctions, including financial penalties, are imposed in any event regardless of action taken, resources may be diverted to meet the sanction, rather than invest in the solution. At a time when football in Scotland is in need of investment and stability, strict liability would penalise clubs not at fault, destabilise clubs financially and discourage investment. In a report commissioned by the United Nations Educational, Scientific and Cultural Organisation, "Colour? What Colour? Report on the fight against discrimination and racism in football" (2015, UNESCO Publishing, Sonntag and Ranc), the authors, having reviewed UEFA's strict liability approach to racism and sanctions imposed in cases of racism, conclude: "All these sanctions are collective ones directly concerning a large number of individuals many of whom are in no way responsible for any racist or discriminatory behaviour. Collective punishment is not only ethically debatable, but most of all it is ineffective and counter productive.

If the overall aim of a policy is to educate the target public concerned and to hold persons accountable for what they say and how they behave and increase their sense of responsibility, collective sanctions are totally counter productive. Why should any individual put his/her behaviour into question if he/she is not sanctioned for what he/she has done, but for what he/she is, as a member of a very large group. Founded on the simple fact of belonging to a group, collective sanctions are in essence themselves a 'discriminatory' act."

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

Celtic Football Club considers that questions 3 and 4 in the consultation may be misleading. Under the current system operated by the SFA and SPFL, clubs are already held responsible for the behaviour of their supporters. A club can only avoid that responsibility if it can demonstrate that it has taken reasonably practicable steps to prevent the unacceptable conduct in question occurring. The system addresses a wide range of conduct, and the sanctions available to the football authorities are flexible and meaningful. The system also provides detailed guidance for clubs regarding reasonably practicable steps to prevent unacceptable conduct.

Assuming that the consultation questions relate to the merits of the imposition of strict liability in football, Celtic Football Club does not consider that there are any advantages to the strict liability system.

On the contrary, there are significant disadvantages to the strict liability system in football. The European Club Association is actively leading a dialogue with UEFA seeking to change the UEFA strict liability system, to which the consultation refers.

A strict liability system in football is open to abuse by individuals, who can use it to attack their own club or another club, by deliberately entering the stadium, either in the home or away support, with the purpose of engaging in unacceptable conduct and creating liability for the club in question. Rather than having a deterrent effect, strict liability may therefore encourage unacceptable conduct. Rather than sanctioning the individuals responsible for unacceptable conduct, strict liability increases the influence that these individuals can have on football in Scotland. The rationale for the adoption of strict liability by sports governing bodies advanced in the consultation, based on Dr van Kleef's research, is that the governing body does not have a direct legal relationship with supporters and that, therefore, sanctioning clubs is the only means for governing bodies to try and prevent disturbances. The logic of this rationale is flawed. First, it assumes that a club will always have a direct legal relationship with an individual attending a match. That will not always be the case, for example where the individual obtained tickets from the other club or where the individual accessed the stadium unlawfully. Further, the individuals engaging in unacceptable conduct are in many cases risking individual criminal sanction and this

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

does not deter them; it is unclear, therefore, how the risk of a club being sanctioned would in fact deter such individuals, or enable clubs or clubs' supporters to dissuade them.

Further, a strict liability system in football would dis-incentivise clubs from investing in positive measures to address unacceptable conduct through engagement, communication and education. If sanctions, including financial penalties, are imposed in any event regardless of action taken, resources may be diverted to meet the sanction, rather than invest in the solution. At a time when football in Scotland is in need of investment and stability, strict liability would penalise clubs not at fault, destabilise clubs financially and discourage investment. In a report commissioned by the United Nations Educational, Scientific and Cultural Organisation, "Colour? What Colour? Report on the fight against discrimination and racism in football" (2015, UNESCO Publishing, Sonntag and Ranc), the authors, having reviewed UEFA's strict liability approach to racism and sanctions imposed in cases of racism, conclude: "All these sanctions are collective ones directly concerning a large number of individuals many of whom are in no way responsible for any racist or discriminatory behaviour. Collective punishment is not only ethically debatable, but most of all it is ineffective and counter productive.

If the overall aim of a policy is to educate the target public concerned and to hold persons accountable for what they say and how they behave and increase their sense of responsibility, collective sanctions are totally counter productive. Why should any individual put his/her behaviour into question if he/she is not sanctioned for what he/she has done, but for what he/she is, as a member of a very large group. Founded on the simple fact of belonging to a group, collective sanctions are in essence themselves a 'discriminatory' act."

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

Celtic Football Club does not believe that there should be a system of strict liability. The current system operated by the SFA and SPFL appropriately addresses unacceptable conduct and relative sanctions.

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

Celtic Football Club does not believe that there should be a system of strict liability. The current system operated by the SFA and SPFL appropriately addresses unacceptable conduct and relative sanctions.

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					ther individuals	
(c) Scottish Government and public sector bodies (such as Police Scotland)						X

Please explain the reasons for your response.

Based on the experience of European clubs involved in UEFA competition, the financial impact of strict liability on football clubs has the potential to be significant. That is particularly so, where the system itself may in fact encourage unacceptable conduct as a means of individuals seeking to impose sanctions on clubs by their behaviour. Where financial resources are finite, this may lead to a reduction of resource available for clubs to invest in their football operations and youth development. Increased running costs could ultimately lead to increased costs for football supporters. Football clubs are sources of employment and investment in communities across Scotland. Increased running costs arising as a result of unfair and arbitrary sanctions may put those sources of employment and investment at risk. The financial impact on the Scottish Government is unclear.

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					

Page 13: Financial implications

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

For the reasons given above, strict liability in football may encourage discriminatory or racist conduct and to that extent may have a negative effect on equality. Given that risk of abuse of the system is inherent in a strict liability system, it is difficult to see how it could be minimised or avoided.

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

For the reasons given above, strict liability in football may encourage discriminatory or racist conduct and to that extent may have a negative effect on equality. Given that risk of abuse of the system is inherent in a strict liability system, it is difficult to see how it could be minimised or avoided.

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 Response

Page 17: General

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

While Celtic Football Club has approached this response primarily from a practical perspective based on its experience of operating a football club and of football governance, the Club agrees with the concerns raised by the SPFL in their consultation response regarding the legal efficacy of the proposal under Scottish law, European law and the regulatory framework of Scottish and international football. The risk of Scottish clubs being excluded from international competition under FIFA regulations cannot be ignored. It is noted from press reports today, for example, that the football association in Mali has been suspended by FIFA for failing to manage its affairs independently and with no influence from third parties.

A number of Celtic supporters have expressed grave concerns to the Club regarding the proposal, which, if implemented by legislation in the Scottish Parliament, may mean that the outcome of football matches and competitions in Scotland could be effected by the actions of a small group of individuals regardless of the absence of fault on the part of a club and the majority of its supporters. There is a real risk that such legislation in the Scottish Parliament would drive supporters away from Scottish football. That is particularly so, in circumstances where such measures are not a feature of regulation of any other sporting or other public event and would appear to discriminate against football and football supporters. The basic premise of a system of strict liability in football – that the behaviour of the small

minority of individuals engaged in unacceptable conduct will be deterred and improved by punishing clubs and the majority of their fans who do not engage in unacceptable conduct – is misconceived. Fundamentally, there is no evidence whatsoever that the system in operation in UEFA competitions, which is referred to in the consultation, either deters those individuals engaged in unacceptable conduct or encourages improvements in behaviour; indeed, efforts are being made to review that system. The report commissioned by UNESCO, referred to at paragraph 21 above, reflects that view.

For the reasons stated above, Celtic Football Club opposes the proposal to introduce strict liability for football clubs in Scotland on the basis that such a system is unfair, unnecessary, disproportionate, ineffective and counterproductive.

Celtic Football Club remains committed to working with its supporters, the Scottish football authorities, Police Scotland and the Scottish Government to address the issue of unacceptable conduct at football matches through the operation and development of the structures and procedures established for that purpose within the SFA and SPFL.