

**ArabTRUST**  
the Dundee United Supporters' Society

**Supporting Police, Protecting Communities: Proposals for Legislation**

**Response to Consultation Document published by the Scottish Executive, February 2005**

**4: Football Banning Orders**

**Introduction**

This response is made by Dundee United Supporters' Society Limited, an Industrial and Provident Society constituted in terms of the Industrial and Provident Societies Act 1965 (registered Number 29504R) and having its registered office at c/o Carnegie , Dand & Kirk Consulting Ltd, Stannergate House, 41 Dundee Road West, Broughty Ferry, Dundee DD5 1NB. The correspondence address for the Society, which operates under the name "ArabTRUST" is c/o Ian Blair, Secretary, ArabTRUST, PO Box 10053, Dundee, DD3 6YX ; e-mail [arabtrust@btinternet.com](mailto:arabtrust@btinternet.com).

The ArabTRUST (the "Trust") is a supporters' trust constituted with the principal object of representing and furthering the interests of supporters in relation to Dundee United Football Club along with associated community and football-related objects.

This response was approved by the Trust at a meeting of its Board on 13 April 2004]. In making this response, the Trust has confined itself to the section of the above consultation document relating to proposed football banning orders. The Trust has no objection to publication of this response. The Trust would appreciate being kept apprised as to the results of the Executive's consultation to the contact address (preferably by e-mail) given above.

**Question 15: Do you agree that football banning orders as described above are an appropriate and effective response to the problem of football-related violence and disorder?**

The Trust considers that the problem of football-related violence and disorder is not as extensive in Scotland as it is in England and we therefore feel that the case for additional measures such as that proposed to be introduced in Scotland has not been made out, at least not in the consultation paper. In particular, the consultation paper does not identify whether the problem is either increasing or is significant in the context of general disorder or antisocial behaviour. The proposal could be seen therefore as a sledgehammer to crack a nut.

We accept, however, that the proposed measure only seeks to restrain those involved in unacceptable behaviour associated with football from

continuing with such behaviour and which is something all genuine football supporters would support.

We presume that football has been identified for this special measure as it the most significant spectator sport in Scotland in terms of numbers of supporters regularly attending matches. However, care would be needed to ensure that the effect of banning orders was not to drive offenders to other sports.

In general, the Trust does not think that these new measure could be successful on their own. We believe that, in England, greater steps were taken and resources applied to detection of misconduct or planned misconduct and "nip it in the bud" before it escalated. We would welcome an announcement form the Scottish Executive as to its proposals in terms of such greater steps or resources in this context to compliment the new Police powers.

**Question 16: Do you agree that courts should be able to impose banning orders on conviction for a football-related offence and on summary application by a Chief Constable?**

The Trust agrees that banning orders should be available both criminally and civilly but also believes that, because of the potentially significant restrictions on the liberty of individuals involved as a result of a banning order being imposed, potentially without a prior criminal conviction, there should be a test of necessity in relation to the prevention of future football-related violence or disorder which would require to be satisfied for the terms of the restrictions contained in it'

**Question 17: Do you agree that the courts should be able to make a banning order if they are satisfied that it would help reduce football-related disorder, specifically the stirring up of hatred against others or threatening, abusive or insulting behaviour at or in connection with a football match?**

Similarly to answer 16, he Trust accepts that, if such a course of conduct as that described is proved, an order should be made but with the same test of necessity in relation to the terms of the order.

**Question 18: Do you agree with the proposed length of a banning order and the proposed penalty for breach of a banning order?**

The Trust has no comments in principle in relation to the maximum duration of banning orders. Duration will be for the Courts to decide in the circumstances. The Trust would observe, however, that it may be difficult to reconcile the proposed maximum duration of 10 years with certain other orders available to the Courts in respect of violence, e.g. exclusion from licensed premises (max 2 years).

**Question 19: Do you agree that banning orders should apply to all competitive and friendly games involving the Scottish national team and SPL and SFL clubs? If not, which games do you think they should apply to?**

The Trust would suggest that the criterion for identifying which matches the orders should apply to should be those with the risk of significant violence or disorder occurring (as opposed to a significant risk of violence or disorder occurring as suggested in the consultation paper). These would be larger matches only, we would suggest, due to the numbers of supporters attending.

As stated above, however, we feel that no evidence has been offered with the consultation paper as to the relative extent of the problem in Scotland. If the existing Police powers have been sufficient in the past to control the problem at most football matches in Scotland, why should, for example all SPL supporters be tarred with the brush of requiring this new measure of control?

We also presume that the reference to the effect of banning orders being limited to specified matches is not intended to relate to any restriction as to the place or circumstances of misconduct which may be taken into account by the Courts in considering an application for an order.

**Question 20: Do you agree that the Scottish Police should take on the administration of the banning orders?**

Yes, subject to there being an assurance given that there will be no increases in fees charged to football clubs for the Policing of football matches as a result of such additional administration along with a commitment to transparent accounting by the Police to demonstrate this. Any such additional costs would no doubt have to be passed on to the supporters as end consumers and, as a public order measure, should be met from the public purse instead.

Mark Allan, for  
Secretary, ArabTRUST

Date: 21 April 2005