

PE1319/Q

**Response of the Scottish Child Law Centre to the Public Petitions Committee re
Public Petition no. PE1319**

INTRODUCTION

The Scottish Child Law Centre (SCLC or the Centre) is an independent charity, based in Edinburgh which provides services to the whole of Scotland. The aim of the Centre is to promote knowledge and use of Scots law and children's rights for the benefit of children and young people in Scotland. SCLC provides free advice by telephone, email, text and letter on all aspects of Scots law relating to children and young people. In addition the Centre provides publications on a range of subjects as well as providing training, conferences and seminars. SCLC also has a consultative and advisory function for local and central government and through this seeks to improve the content and practice of the law as it relates to and affects children. The Centre employs qualified solicitors to carry out its legal work.

The Centre welcomes the opportunity to respond to the petition no 1319 concerning the issuing of contracts by football clubs to children. This written response is our general overview of the implications of such contracts, and the concerns raised by the petition.

The Centre has not had sight of any contracts concerning children and football clubs and has not direct knowledge of any complaints, thus we can only respond in theoretical terms.

Article three of the United Nations Convention on the Rights of the Child states that in all actions concerning children, their best interests are a primary consideration. Scottish Law goes further, and provides that in matters concerning a child his or her best interests are the paramount consideration. If children under 16 are offered contracts by football clubs it is essential that those contracts should be drawn up in a way that recognises that the interests of the child are paramount.

A child under the age of 16 cannot enter into a legally binding contract; it must be signed for them by an adult who has parental rights and responsibilities. Parents and those with parental responsibilities and rights have discretion in how they exercise those responsibilities and rights, and are required to take into account the needs and wishes of the child.

Contract terms must be fair and reasonable. A contract which restricts a child's right to participate in school activities and other normal childhood play and activities in order to protect the interests of others, rather than those of the child may not be in the interests of the child.

Article 31 of the United Nations Convention on the Rights of the Child states that: "States Parties must recognise the right of the child to engage in play and recreational activities appropriate to the age of the child."

No contract should restrict that right without good cause – taking into account the interests of the child - and no contract should be entered into without the child having a full understanding of what it means, and consenting to that contract. Consideration should be given to the child being provided with independent advice to avoid any pressure from parents or carers, even if that pressure is well meaning.

Children in Scotland are deemed by law, once they are 12 years of age, to be able to understand matters in the courts and in children’s hearings and to be entitled to a view in such proceedings. Children under 12 are still entitled to express a view and can have the capacity to participate in legal matters including the instruction of independent legal advice. Thus it is our view that children who are offered contracts that can place restrictions on their normal activities should be provided with clear and age appropriate information about the nature of the contract, and the consequences of it being signed.

Article 32 of the UNCRC states that “the child must be protected from economic exploitation and to be protected from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”. Any contract which does not recognise the child’s needs, and which restricts a child from participating in school activities which are a normal and often valuable part of their education may not be in the interests of the child.

Consideration should be given to monitoring the transfer of children between clubs to ensure that such a transfer is acceptable to the child and in their best interests.

It is the view of the Scottish Child Law Centre that the interests of children entering into contracts that can give others and economic advantage, and that can restrict the activities of children can in some instances be against the best interests of the child. We would recommend consideration of measures such as Standards and Guidance, a Code of Conduct and an appeal process that where possible does not require court action. Court action concerning unfair contract terms is possible, but can be slow and expensive, and should be a last resort.