

Justice Committee
Apologies (Scotland) Bill

Written submission from the Federation of Small Businesses

Thank you for inviting us to comment on your proposal to introduce apologies legislation in Scotland.

The Bill largely refers to the approach of the public sector in responding to complaints, recognising the wider benefits of changing the culture of apologies. While we have no direct evidence from small businesses about the need to address this issue, anecdotally we know that businesses are concerned about operating in an increasingly litigious society. This leads to a fear of the impact of saying or doing ‘the wrong thing.’

In that sense, the general aims of the Bill may be helpful to small businesses in Scotland. However, having read the document we thought it might be helpful to offer some additional comments in relation to the definition of an apology and to query jurisdictional issues.

Firstly, clear drafting of provisions relating to the definition of an apology is critical. The Bill aims to ensure that legal action can still proceed, irrespective of an apology, on the basis that admissions of legal fault, culpability or liability would not be covered. However, it also suggests that an apology could include some admission of responsibility. In our view, determining the difference between accepting an element of responsibility and acknowledging legal liability would be a difficult judgement. Similar issues may arise in relation to statements of fact.

Secondly, we were unsure about the extent to which the legislation would cover apologies issued in Scotland but used as an admission of liability in court in another jurisdiction. For example, if a customer resided or the service was delivered somewhere where apologies were not protected? It may be that terms and conditions could be amended to address this.

I hope these comments are useful. If you would like to discuss any of the points further, please contact Colin Borland, Head of External Affairs using the contact details above.

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Scottish Policy Convenor
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