

## **Public Petitions Committee Debate: Improving Youth Football in Scotland**

### **Children and Young People's Commissioner Scotland briefing note**

**18 November 2020**

We fully support the recommendations in the Public Petitions Committee's report of 22 June 2020 and welcome this debate.

Our 2015 submission to the Committee<sup>1</sup> identified the human rights issues engaged in terms of the United Nations Convention on the Rights of the Child (UNCRC).

These included:

Art 3 – right for best interests to be a primary consideration in all decisions

Art 12 – right to be heard

Art 29 – right to education

Art 31 – right to play and leisure

Art 32 – right to protection from commercial exploitation

Art 36 – right to protection from harms to development

The Commissioner has committed to facilitating a meeting between the Scottish Government, the SFA and the petitioners in order to seek a resolution to the outstanding human rights issues. Due to the impact of the Covid-19 pandemic it has not been possible to arrange this as yet. However, on 2 October 2020 we sought an update from the SFA on progress made implementing the Committee's recommendations. This was in order to assist us in making a determination about the urgency of a meeting and therefore how best to arrange it in a way that balances everyone's desire to make progress on this issue with the restrictions in place. We will update the Committee on receiving a response.

---

<sup>1</sup><https://cypcs.org.uk/wpcypcs/wp-content/uploads/2020/02/Youth-football-report.pdf>

In terms of outstanding issues, we note that in particular the Committee called for the SFA to:

- *extend the one year registration period that applies to players in the 10-14 year age group to 15 year-old players on the basis that players under the age of 16 should not be required to sign up to a system that ties them in to a multi-year registration.*
- *change the system for reimbursement of training costs so that compensation is only required to be paid when a player signs their first professional contract.*

We note the following:

### **Registration**

The binding nature of registration documents, and the consequences for the child of signing them, mean that much more consideration needs to be given to the protections required for children.

### **Compensation**

The SFA's contention, disputed by the Petitioners, is that Article 1 of the FIFA Regulations on the Status and Transfer of Players (the Regulations) requires it to put in place a system of compensation for youth players (ie outwith that provided for in Annexe 4). However our understanding is that other international football associations do not have such a mechanism in place, calling this interpretation into question.

FIFA's Players Status Committee - one of FIFA's nine standing committees - is specifically tasked with monitoring compliance with the Regulations. We suggest therefore that the SFA seek a formal determination from the Committee in support of its interpretation in order to place the matter beyond doubt.

### **Wellbeing Panel**

We note that the SFA has put in place a Wellbeing Panel to "mediate" those situations where children seek to escape from enforcement of the terms of binding

registration documents. We are also aware of concerns expressed about the operation of the Panel and would therefore support a review of its operation. The review should be human rights-based and consider in particular issues around accessibility, fairness and equality of arms, based on the experiences of children who have made use of it. Should the issues around registration and compensation be resolved, the Panel would have less need to be involved in those more challenging cases.

### **Role of the Scottish Government**

Although the SFA and the SPFL clubs themselves may not be classed as a public bodies, we note that the United Nations Guiding Principles on Business and Human Rights<sup>2</sup> makes clear that the State may breach its own legal obligations if it fails to take appropriate action to prevent, investigate, punish and redress rights violations. The Committee on the Rights of the Child in its General Comment 16 on State obligations regarding the impact of the business sector on children's rights<sup>3</sup> "recognizes that duties and responsibilities to respect the rights of children extend in practice beyond the State and State-controlled services and institutions and apply to private actors and business enterprises". It calls for all businesses to meet their responsibilities regarding children's rights and for States to ensure that they do so. This means the Scottish Government must consider all of the powers and levers at its disposal to address these issues. This includes, but is not limited to, the option of legislation or regulation. As we noted on publication of the Committee's report, we agree with the Petitioners that as a matter of principle, children's rights are best protected by law rather than by self-regulation.

### **Children and Young People's Commissioner Scotland**

**18 November 2020**

---

<sup>2</sup> [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

<sup>3</sup> <https://www.refworld.org/docid/51ef9cd24.html>