

Apologies (Scotland) Bill

Consultation by Margaret Mitchell MSP Member
for the Central Scotland Region 29th June 2012

Submission from:

Accountability Scotland

Q1: Do you agree that legislation is a necessary and appropriate means of addressing the issues identified?

YES

Q2: Have you ever experienced any barriers to making or receiving an apology? If so, please expand upon this. Where you have received (or made) an apology, or felt an apology should have been received (or made) but was not, please provide details of what difference the apology (or lack of it) made to how you feel.

YES – Local Authority officials NEVER apologise as it would be an admission that they had made a mistake. Apologies, together with an assurance that some action would be taken to try to avoid such mistakes in future would have made us feel that we had been treated with respect, and our opinion of officials would have been enhanced.

Q3. Do you have any experience of the effect that apology legislation can make? Would you be more likely either to expect an apology, or to apologise yourself, if there was apology legislation in Scotland?

NO.

We would be more likely to expect an apology from public authorities or officials if there was legislation as proposed. We see no problem in apologizing ourselves when we recognize that we have made an error.

Q4. Do you support the general aim of the proposed Bill? Please indicate “yes/no/undecided” and explain the reasons for your response.

YES

We are concerned about ‘accountability’. A key aspect of that is an apology: if mistakes are made by public authorities or officials. The problem is that these bodies generally see an apology as reflecting badly on them or even in the case of officials affecting their career prospects. These attitudes must change for the public good

We agree with the then Scottish Public Services Ombudsman, Alice Brown (2005) in her statement:

“A body can get things right in the first instance when a complaint arises after something has gone wrong by seeing that it has done something, apologising and demonstrating how it will put the problem right.

That is usually the end of the matter. Most reasonable members of the public want an honest response; they want to understand what and why something happened and what has been done about it.”

Q5: Do you consider the proposed definition adequate? What elements should be included in the definition in order to achieve the aims of the Bill? Should it include an undertaking to review? Do you think an undertaking to review is necessary for an apology to be effective? Please give your reasons.

YES

Where appropriate or possible an undertaking to review should be included in the apology. In our experience public consultations have not been carried out as required on matters like planning proposals or changes relating to public buildings. Even after an SPSO report extracted an assurance that consultation procedures would be instituted, no apology was forthcoming as requested.

Q6. Referring to the features listed, or others, what do you consider to be the key features of an effective or meaningful apology?

Saying I or we are “genuinely sorry” and that, where possible action will be taken to try to ensure the mistake will not happen again.

Q7. Should the definition of an apology in the context of the proposal include admissions or statements of fault, or should they be excluded from the Bill’s protections?

NO

The statements or admissions of “fault’ should be excluded, otherwise the apologies will never be obtained. An admission of fault would have legal implications - assisting subsequent legal actions by a complainant.

Q8. How do you think the Bill should deal with statements of fact included with apologies?

Statements of fact included with apologies should relate to what specific remedial actions can and will be taken to ensure no recurrence in future situations.

Q9. In relation to non-criminal matters, should the Bill apply generally to all types of legal proceedings, or only to some? Please give examples of particular types of proceedings that you think it should cover, and any it should not, along with your reasons for their inclusion/exclusion. Should the Bill also extend to some less formal proceedings (e.g. certain complaints procedures)?

We do not see how it can apply to legal proceedings, but the Bill should extend to local authorities, the work of tribunals and judgments by the SPSO.

Q10. While it is the intention that the proposal will apply to civil matters only, do you think that there are any areas of criminal law to which it should apply?

NO

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Q11. What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

NO financial implications now or in the future for Accountability Scotland.

Q12. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

On the positive side, it would redress to some degree the 'imbalance' which exists between officialdom and the public. It could improve relations between public authorities and the people by improving accountability of public authorities.