

Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

Letter from the Scottish Government to the Convener

Thank you for your letter of 5 November 2013 regarding the Justice Committee's considerations around the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. It remains the Government's view that bringing forward the evaluation timetable agreed by Parliament would not be appropriate and I have set out our reasoning below.

As Justice Committee members are aware, there is a statutory obligation on the Government to report to Parliament on the operation of the Act's offences over two full football seasons. The Government will fulfil that obligation and work is already taking place as part of that review. In agreeing that two full football seasons should have passed before the report's publication, the Government took full account of the suggestion in the Justice Committee's report on the Bill that it should contain express provision requiring a report to Parliament, but only after the legislation had been in operation for a sufficient length of time to evaluate the evidence of its impact. Parliament agreed to that approach.

The rationale for adhering to the timetable recommended by the Committee and agreed by Parliament has not changed; doing so will enable us to complete a proper, comprehensive, quality assured and evidence based evaluation of the operation of the Act. Bringing forward the timetable risks this work being done without the evidence base which Parliament recognised as being required and at a pace which will jeopardise the quality of the final research.

I recognise that Committee members have received a significant level of correspondence on this matter, primarily as a result of an online campaign. It is important to address the matters raised in and around that campaign as doing so further explains our view that accelerating the evaluation timetable is unnecessary.

In June this year the Scottish Government published a number of documents which provide a clear evidence base for work across justice partners in relation to football related offensive behaviour.

The first annual publication of 'Charges reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) 2012 Act' was published on 14th June. I have attached a copy of the full report as an annex to this letter. The [full report](#) is available on the Scottish Government website. This report covered the period from commencement of the Act on 1 March 2012 to 31 March 2013. The Scottish Government will be publishing this report next June for the year to 31 March 2014.

This analysis of charges reported under the Act showed that there were 268 charges reported under Section 1 of the legislation. The majority of the charges were for "hateful" behaviour (46.6%) and "threatening" behaviour (44.4%); while all 46

charges for “other behaviour that a reasonable person would be likely to consider offensive” were for behaviour which referenced terrorism or terrorist organisations (17.2% of all charges). The vast majority of charges for “hateful” behaviour were for behaviour derogatory towards Roman Catholicism (83%), with 15.1% for behaviour derogatory towards Protestantism and 1.9% for behaviour derogatory towards Judaism. This analysis will be published again in June next year.

We made clear as the bill progressed through Parliament that this legislation was intended to tackle exactly the kind of offensive behaviour described in these statistics. What they also show is that the vast majority of football supporters are well-behaved and simply wish to support their team. The fact that the overall number of offences are also broadly comparable with previous years’ statistics illustrates that it is simply wrong to suggest that there is any evidence of a widespread criminalisation of football supporters.

The campaign also suggests that the Act has been dis-proportionately used to target certain supporters. The statistics make clear that there is no evidence to support that assertion. They showed that, in the charges where football affiliations were noted by the police, 31.7 % of the accused were described as having Rangers affiliations, compared to 25.4% with Celtic affiliations and 10.4 % Hibernian affiliations. They also show that the Act has been used across a wide range of football fixtures involving a variety of clubs rather than suggesting an undue focus on any particular club.

Last June also saw the publication of the [report](#) on ‘Religiously Aggravated Offending in Scotland’ (section 74 of the Criminal Justice (Scotland) Act 2003) and the Crown Office’s [report](#) on ‘Hate Crime in Scotland’. I have attached both of these reports as annexes to this letter.

It is worthwhile highlighting that while the section 74 report found that the majority of religious abuse victims were police officers, more than a third of religious abuse was targeted within the general community. I am aware that some campaigners have downplayed the significance of police officers being the targets of this abuse and that arbitrary expressions of religious intolerance against the general community are also of little note. I am not however prepared to accept that and I hope that the Committee would not either.

It has been claimed as part of this campaign that figures obtained under the Freedom of Information Act show that there is ‘no statistical link between acts of domestic violence and any particular football match’. The validity or otherwise of that claim is not affected by the Offensive Behaviour at Football and Threatening Communications (Scotland) Act. It is therefore difficult to see how a review of the Act would answer the campaign’s concern here. However, most critically, the contention of the campaign is directly contradicted by the available evidence. You will recall that the First Minister’s Football Summit in March 2011 considered evidence from Chief Constable House on the link between violent crime (including domestic abuse) and Old Firm matches. I think that this is compelling evidence of the need for action in this area, work that is being taken forward with partners including the police. I am attaching a link which I hope is helpful.

<http://www.bbc.co.uk/news/uk-scotland-glasgow-west-12670175>

I would also draw the Committee's attention to research recently carried out by the University of St Andrews which showed a statistically significant relationship between reported domestic abuse and football matches. I have attached a copy of this report to my letter. The committee might wish to speak to the St Andrews researchers about the connection which they identified between football matches and incidence of domestic abuse.

Finally, the campaign raises concerns about the 'style of policing' which it suggests has been 'engendered' by the Act. I would simply refer the Committee to the letter it received from the Lord Advocate earlier this year where he pointed out that the Offensive Behaviour Act contains no provisions on policing and that policing is a matter for the Chief Constable. I would emphasise the Lord Advocate's comments that if there are any concerns about policing then there are avenues through which complaints can be made, investigated and adjudicated upon. I do not wish to comment on the events at the Gallowgate earlier this year (which have been raised in connection with the Act) as the cases arising are still being dealt with by the courts, other than to emphasise to the Committee that none of the arrests made were under the Offensive Behaviour at Football Act.

I hope that this letter explains clearly why we do not believe that a case has been made for the acceleration of the timetable to evaluate the Act and I hope that the Committee will support that view.

Roseanna Cunningham
Minister for Community Safety and Legal Affairs
13 November 2013