Justice Committee

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

Letter from Fans Against Criminalisation to the Convener

Following the e-mail campaign launched by Fans Against Criminalisation (FAC), we have found it encouraging that our call for an early review of the Offensive Behaviour at Football and Threatening Communications Act is being considered by the Justice Committee. FAC is also extremely supportive of the proposal of an ad-hoc committee being commissioned to examine this Act and how it has affected all football supporters.

Having considered the letters of reply to the Convener by the Lord Advocate, Police Scotland and the Scottish Government respectively, it is worth noting our concerns with each of their positions.

The Lord Advocate

Within his letter, Lord Advocate Frank Mulholland begins by stating that fans are not merely arrested for ‘watching their team’ and lists several offences which have resulted in convictions under the Offensive Behaviour at Football and Threatening Communications Act. This list however omits the people who have been arrested and charged for the crime of being a football supporter.

- There is no mention of the man who was arrested at the airport as he returned home from his holiday with his panic-stricken girlfriend on a charge which was so ridiculous it was thrown out within weeks of this incident.

- There is no mention of the young man accused of singing lyrics to a song which prosecutors have deemed offensive, in spite of the fact that video evidence clearly demonstrated this not to be the case and that he was singing something different entirely. The constant court appearances however still caused this young man to lose his livelihood.

- There is also no mention of the 4 cases in which the presiding Sheriff has simply been unable to rely upon the evidence given by police witnesses. Examples such as these demonstrate the human cost to this legislation.

The Lord Advocate specifically mentions one song, known as The Roll of Honour, in his reply to the convenor. ‘People who engage in singing this song should appreciate that it is offensive to fans of other football teams and depending on the circumstances could result in arrest and conviction.’

We reject entirely the notion that to sing this song is to glorify violence or that it should be a criminal offence. We are happy to provide the lyrics to this song if the committee would find it useful. It is also suggested that this song had resulted in convictions under previous legislation and we would like the Lord Advocate to expand on this with details and the context of exact cases as we have consulted the
three solicitors who have handled most of these cases and they are not aware of any convictions under the Section 74 legislation. The song refers to the Republican hunger strikers of 1981 and is fundamentally a song about human rights and civil resistance. People such as Nelson Mandela, Tony Blair, Tony Benn and several Loyalists have commended the bravery of these men, yet sadly this is now seen as a criminal offence within the context of Scottish football. The issue is not whether one might agree with the political stance of the song or whether one might feel that it has nothing to do with football, the issue is should it be illegal to espouse political opinion? It is an extremely dangerous precedent to set. It is difficult to see how this song could be deemed illegal without calling into question the legitimacy of a song such as ‘Scots Wha Hae’, the classic favourite of the Scottish National Party. When you begin to create laws on the basis of something as subjective as offensiveness, freedom of expression is the natural casualty.

**Police Scotland**

Within the reply submitted by Police Scotland it is claimed that propaganda has led to mistrust of the police. We flatly reject this claim and contend that is in fact the behaviour of police officers themselves which has led to a complete breakdown in trust between football supporters and the police. Rather than being indoctrinated as is suggested by Police Scotland, young fans are particularly disillusioned because they are often the victims of the harassment which sadly goes hand in hand with following certain teams in Scotland at present. Whilst it may be the case that some fixtures have seen a reduction in policing, those present at the recent match between Hibernian and Celtic in Edinburgh will testify that in real terms, the level of policing is extremely over the top and an unnecessary drain on the taxpayer’s money.

It is also worth pointing out that FAC are well aware that it is not only Celtic fans who are subject to this act, nor are Celtic fans the only group of supporters who have opposed it. There have been numerous protests against this act across the country, from Motherwell to Livingston to the Scottish National Team. Banners have been displayed, demonstrations have been held and e-mails have been sent. The Celtic support may well be at the forefront of this fight and we make no apologies for that whatsoever, but this is fundamentally an issue for all football supporters across the country. However, we would also note that the overwhelming majority of fans of other clubs who have been convicted under this Act, were convicted for actions which would have been illegal before the Act was passed. The same cannot be said of Celtic fans and, in fact, we are only aware of three convictions of Celtic fans under this Act and two of them resulted in an Absolute Discharge. Convictions are actually less of a problem at this stage than the harassment and heavy handed policing which the Act has engendered encouraged.

**Minister for Community Safety**

FAC also finds it entirely regrettable, yet sadly unsurprising, that the Minister for Community Safety and Legal Affairs has argued against an early review of this Act. We simply do not accept that it is in the public interest to wait to assess the damage being done. It is clear that there is a demand for action now and there is far more to be lost by waiting needlessly for this act to inflict even more damage upon those who attend football matches. This act has been implemented for over 18 months which is
more than an adequate amount of time to gauge its’ effectiveness. Within that time it has been lambasted by academics, ridiculed by lawyers and dismissed as ‘mince’ and a ‘nonsense’ by judges of the Sheriff court. It has been defended only by those who sought to implement it in the first place.

Thank you for your attention

Fans Against Criminalisation
19 November 2013