

Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from YouthLink Scotland

Introduction

1.1 YouthLink Scotland is the national agency for youth work. It is a membership organisation and is in the unique position of representing the interests and aspirations of the whole of the sector both voluntary and statutory. YouthLink Scotland champions the role and value of the youth work sector, challenging government at national and local levels to invest in the development of the sector. YouthLink represents over 100 organisations, including the 32 Local Authority youth work services and all major national voluntary youth work organisations, which in turn support over 300,000 young people in achieving their potential.

Our aim is for Scotland to have a dynamic and accessible youth work sector, which supports young people to become successful learners, confident individuals, effective contributors and responsible citizens.

1.2 YouthLink Scotland, its board, membership and staff are working together to achieve the following outcomes:

- Increased awareness and understanding of the contribution made by youth work to achieving key policy agendas.
- Policy and legislation which better reflects the needs and aspirations of the youth work sector and the young people they work with.
- A clear strategic approach to improving youth work practice in Scotland, increasing the quality of youth work opportunities for young people.
- A clear strategic approach to workforce development, increasing the quality and quantity of training opportunities for youth work staff and volunteers.
- Improved communication and networking across the sector, with external stakeholders and the media, resulting in increased recognition of the positive contribution made by youth work and young people.
- Sustainable investment in youth work

1.3 YouthLink Scotland has a track record in successfully delivering anti-sectarian work in partnership with the Scottish Government, having developed Beyond a Culture of Two Halves, an anti-sectarian training toolkit for use with young people and adults, which was piloted in a variety of settings such as youth groups, schools, young offenders' institutions, prisons and football clubs and was delivered in partnership with the Government, SPL, SFA, Rangers and Celtic FC and the Scottish Prison Service.

General comments on the Bill

2.1 YouthLink Scotland fully supports the policy aims of the Bill and agrees that the Scottish Government must be seen to be taking action to address the issue of sectarian hatred and violence before the start of the new football season.

2.2 However, our view is that the legislation may require amendments in order to strengthen it and ensure that it will be as effective as possible. We echo some of the concerns of other stakeholders that the speed at which the legislation is being introduced has reduced the opportunities for full and proper scrutiny of the Bill. Our concern is that this could result in legal challenges being made to the Bill which could potentially reduce its effectiveness in achieving its outcomes, i.e. deterring sectarianism and other forms of bigoted behaviour.

2.3 Alongside effective legislation, there also needs to be a national public education campaign supported by work in local communities and across different generations, so that sectarianism becomes regarded as morally unacceptable in the same way that, for example, drink driving has become. Too often sectarianism is framed as a football/West of Scotland issue yet it is a social problem for Scotland as a whole, and has much broader effects as incidents of sectarian violence bring our international reputation into disrepute, resulting in a potential loss of investment and creating damage to our recovering economy.

2.4 The positive outcomes that have been achieved through youth work initiatives such as Beyond a Culture of Two Halves risk being undone if we do not also invest in work that reaches young people's broader social milieu, specifically their families and communities. In our view this work needs to be intergenerational and will need to consider the ways that attitudes and behaviours are developed and are rooted within family and other personal relationships. YouthLink Scotland has undertaken work with young offenders who have been convicted of offences with a sectarian element, and the young people have told us that while they may be convinced of the need to change their views, sectarian attitudes are prevalent in their families and communities and they feel they will not be in a position to challenge these views once they are released. For these reasons and others, behavioural and attitudinal change is notoriously difficult to achieve and will not happen overnight. Nevertheless, we must be ambitious and invest in this work in order to ensure there is no place for bigotry and hatred of any kind in Scottish society. There is a need to tackle sectarianism as a specific Scottish issue, but we must link this to work to tackle other forms of intolerance such as racism, sexism and homophobia.

2.5 YouthLink Scotland can contribute to this broader education and marketing strategy from the youth work angle, but we can also engage with community development networks through our links to Community Learning and Development which encompasses adult education and community capacity-building. It is important to ensure that any public education strategy encompasses a broad range of partners and is not limited to youth work and schools. For example, we need to bring on board the consumer and trading standards councils so that those responsible for manufacturing and selling offensive merchandising can be brought to account.

Section 1 offence

3.1 We agree that the seriousness of the issues surrounding sectarianism, and other forms of hatred, at football matches needs to be specifically addressed. We welcome the decision to include all the protected characteristics covered by existing legislation under this offence, i.e. religion, race, disability, gender, sexual orientation and transgender identity.

3.2 Section 2(1)(a): We are concerned that junior leagues and school football are not covered by the Bill. The definition used is 'regulated football match' as defined in section 55(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006, which is limited to teams that are representing a country/territory, are members of the SPL or SFL, Football League, FA Premier League, Football Conference or League of Wales. If we recognise that sectarianism is a problem at all levels of Scottish society then we cannot limit this legislation to regulated football matches alone.

3.3 In Section 2(3) reference is made to 'any place (other than a domestic premise) where a regulated football match is being screened'. We seek clarity over whether 'any place' would include settings such as premises used by a youth group.

3.4 In relation to subsection (2)(c) we have some concerns in relation to the civil liberties of individuals travelling to locations where matches are being played. (2)(4)(a) states that 'a person may be regarded as having been on a journey to or from a regulated football match whether or not the person attended or intended to attend the match' which we feel may be open to misinterpretation and could lead to challenges to the legislation on the grounds of infringement of human rights. Individuals with no intention of attending or watching a match may be caught up in a crowd, yet could still be charged with an offence under the legislation as it applies regardless of the individual's intentions.

Section 5 offence

4.1 In terms of a consistent approach to tackling inequalities, we feel that the decision to limit the legislation on threatening communications in Condition B to religious hatred is inconsistent with the approach taken in Section 1. We would recommend that all protected characteristics are included, and not just religion. This would allow for a more coherent approach to be taken in relation to the rest of this legislation and may help prevent the need for additional legislation to cover all the protected characteristics further down the line.

4.2 We welcome the decision to cover the expression or incitement of hatred towards both individuals and groups under Section 5. Offensive sectarian comments are often posted on online forums about Catholics or Protestants generally as well as being directed at specific individuals, so it is important that such comments are covered by the legislation and that there should not be a loophole which allows hate-filled statements to be expressed.

4.3 We support the concerns raised by the Equality Network in their response in relation to the limitations of the new legislation when compared to the Public Order

Act 1986, which covers the offence of stirring up racial hatred. This existing offence is broader as it is not limited to threatening communication, but also includes abusive and insulting communication. It also covers communication that is likely to stir up racial hatred, not just communication that is intended to do so. We recommend that the wording of the legislation under Section 5 is revisited in order to include other forms of hatred, and to extend the scope of the offence to reflect the wording of the Public Order Act 1986.

4.4 However, there are also important caveats in relation to freedom of expression, and our view is that this issue has considerable potential to weaken the legislation, or result in it being misused or misapplied. The Cross-Party Working Group on Religious Hatred (2002) was of the view that 'a law against incitement to religious hatred could conceivably be used to prevent public preaching that the adherents of other faiths were in error. A law against incitement to religious hatred might also hinder people from discussing openly their concerns about particular religious practices that they might regard as harmful, whether within their own or another faith.' YouthLink Scotland disagrees with the Working Group's conclusion that religious incitement should not in itself be an offence, and that religion is different from race in that individuals choose to belong. Individuals may be subject to offensive and threatening behaviour because of the group they are perceived to belong to, regardless of what they actually believe. We do however agree that there is potential for legislation on religious hatred to be misused, e.g. by adherents of a particular faith who claim that the beliefs of other religions are erroneous and wish to prosecute those who criticise beliefs or practices associated with their religion.

4.5 We agree with the views of the Equality Network in their response (para 20-1) that the English legislation in section 29J of the Public Order Act 1986 provides a useful comparison as it provides specific protection for the expression of criticism of religions and their practices.

4.6 We also support the Equality Network's argument (para 22) that unrecorded speech outwith domestic premises should be covered by the legislation. We are unclear as to whether a speech inciting religious hatred at a rally or demonstration, for instance, would be considered an offence under this legislation.

4.7 We recognise the difficulties involved in addressing the issue of offensive songs, chants, signs and slogans and that the context is crucial in determining whether these communications are intended to express or incite hatred. However we feel that the legislation needs to specifically address these concerns. While a list of prohibited songs etc would not be workable, there is a risk that the lack of specificity in the legislation could lead to the expression of religious faith, e.g blessing oneself, being classed as an offence in certain circumstances, and that this would conflict with the right to free expression of religious belief under Article 18 of the United Nations Universal Declaration of Human Rights, to which the UK is a signatory. There are no easy solutions to these issues, but we feel that the legislation is at risk of being misinterpreted and misused unless it specifically addresses these concerns.