

Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from the Council of Ethnic Minority Voluntary Sector Organisations (CEMVO) Scotland

1. Background

1.1 The Council of Ethnic Minority Voluntary Sector Organisations (CEMVO) Scotland is a national intermediary organisation and strategic partner of the Scottish Government working to provide support to the Scottish Ethnic Minority (EM) voluntary sector. CEMVO established its operations in Scotland in March 2003, with the aim of building the capacity and sustainability of the country's EM voluntary and community sector. We currently have a network of over 600 EM voluntary sector organisations and community groups throughout Scotland to which we provide a range of programmes to help build its capacity. The wide-ranging work of CEMVO Scotland reflects the diverse needs of the groups it serves, varying from socio-economic regeneration such as social enterprise, life-long learning, civic and democratic participation and representation to organisational development, mainstreaming, policy and research.

1.2 CEMVO Scotland welcomes the opportunity to contribute to the Bill although given the current timeframe which falls over the summer holiday period and Ramadan, we are not able to consult with our network as widely as we would have wished. We have instead based our comments on our extensive experience working with EM voluntary organisations, community groups and public bodies through our role as the national intermediary organisation of the EM voluntary sector.

1.3 CEMVO also welcomes the strong messages this Bill gives in relation to the insidious nature of sectarianism and that such behaviour is not to be tolerated. We retain a particular interest in the issue given the centrality of religious identity within notions of 'race' and 'ethnicity'.

2. EQIA

2.1 We note the fact that an EQIA

<http://www.scotland.gov.uk/Resource/Doc/925/0118334.pdf> has been carried out on the Bill, including a consultation exercise on 17 June and that a further EQIA is to be prepared in relation to media campaigns/awareness raising. Importantly, we recognise that the EQIA attempts to clarify the purpose of the Bill, stating that the principal objective is '*to tackle sectarianism by preventing offensive and threatening behaviour related to football matches and preventing the communication of material including where it incites racial hatred*', as well as what the Bill will and will not do.

2.2 The EQIA further indicates that as part of the post implementation work on the Bill, the Scottish Government will look at '*further building a strong evidence base in relation to tackling the issue of sectarianism as well as other forms of bigoted and discriminatory behaviour*' in order to enable understanding of the impact the legislation and related policy is having on people of different ethnicities.

2.3 We welcome the assurance that while the nature of the public debate has been and will continue to focus on 'sectarianism' or religious hatred expressed in the context of football matches there is a clear recognition that the nature of the offensive behaviour the Bill seeks to cover is in fact wider.

That said, we have a number of further concerns and comments to record:

3. Timetable

3.1 Whilst recognising that the Scottish government believed the measures in the Bill need to be in place before the start of the 2011/12 football season we, like others working in the equalities field, had concerns about the limited consultation period offered prior to the Bill being introduced into the Scottish Parliament. This meant the Bill was departing from normal Parliamentary process and the consultation carried out as a result was neither fully inclusive nor democratic. We wish it noted that with regard to the event held on 17 June, neither of the key national EM led organisations – BEMIS or CEMVO - were present.

3.2 However whilst we have decided to submit our response by the original deadline, we were pleased to read that a decision to extend the timetable for the Bill until later in the year has now been made. Given this extension, CEMVO considers that a more appropriate response might be to first consider what gaps if any exist in current legislation, what is not working well at present and how it might be enforced more effectively.

3.3 Should the Bill still go through, we would also strongly encourage a clause to be built in which would allow for evaluation of its effectiveness and consideration of further review and amendments.

4. Content of the Bill

4.1 Section 1 – offensive behaviour at regulated football matches: we are aware that colleagues from the legal profession have made a number of expert responses and would only wish to add that from our point of view as one of a number of EM organisations working to inform disadvantaged and excluded communities about new forms of legal protection and rights, there appears to be room for considerable confusion arising out of the apparent duplication at times between the new Bill and common law breach of the peace.

4.2 We believe that this section would be helped by providing clarification of how the new provisions will be stronger than existing criminal law provisions for example Part 3 of the Public Order Act 1986 (incitement of racial hatred) and Section 96 of the Crime and Disorder Act 1986 which provide for statutory aggravations on grounds of religious or racial hatred. If indeed they are stronger (although on the contrary the proposed new offence appears to be more restrictive than the offence in Scotland of stirring up racial hatred) we would firmly support comments made by other organisations in relation to missed opportunities to extend the Bill beyond football related incidents.

4.3 Section 5 - threatening communication: with regard to this section CEMVO supports the views expressed by the Equality Network that section 5(5) on threatening communication would be more consistent and less confusing if it were to be amended to cover all the categories in section 1(4) on offensive behaviour. Given the positive

work that is being done in Scotland to build alliances and develop partnership across strands and communities we are extremely concerned that no unintentional hierarchies or divisions are fostered between people of protected characteristics.

5. General comments

5.1 Lessons to be learnt: given the wealth of research completed and knowledge gained in regions such as the North of Ireland (and where numbers of EM people are similar to Scotland), CEMVO would welcome opportunities to hear from individuals there in respect of sectarianism and hate crime so that Scotland can build on such experiences. Two examples we are aware of are *Sectarianism and Racism, and their parallels and differences*: Brewer, JD (Ethnic and Racial Studies Volume 15 Issue 3, 1992) an attempt to define the concept of sectarianism, under-theorized compared to that of racism, and identifying the points of continuity and difference between the two terms and b) numerous articles on the implications of sectarian division for multi-ethnicity in Ireland by Dr Robbie McVeigh.

5.2 Sharing good practice: as we have already stated CEMVO welcomes the inclusive definition used in (2) (a). We are in general supportive of a number of comments made by the Scottish Council of Jewish bodies and strongly condemn any form of anti-Semitic or Islamophobic attacks or any attempt to incite hatred and violence about either community in Scotland. We would draw your attention to a recent educational pack produced by Show Racism the Red Card, the aim of which is to help young people challenge stereotypes and prejudice towards Muslims, and to gain a greater historical and political awareness of the climate which has enabled Islamophobia to flourish in recent times.

5.3 Additional guidance required

5.3.1 Legislation can only play a small part in tackling sectarianism and other forms of hatred. The problem is also clearly much wider than football – as many other respondents have indicated. CEMVO's role to help mainstream racial equality across public bodies has enabled us to paint a picture of what is happening in health, criminal justice and education in terms of raising awareness and building greater understanding. We believe that in order to prevent cluttering the landscape further with additional pieces of legislation and policy, the issue of sectarianism need to be mainstreamed across the public sector in line with current equality legislation. The general duty requires public bodies to 'foster good relations between people who share a protected characteristic' and whilst there is a current debate taking place about the extension of publication of employment information across all protected strands including religion, we believe that it is crucial to have robust data which will evidence the level of sectarianism across all sectors and enable more robust action plans to be set in place.

5.3.2 CEMVO is also keen to see the results of the first ever international study into the rehabilitation of hate crime offenders (EHRC) as we would also welcome greater attention being paid to what motivates people to commit these crimes and what can be done to stop them.

5.3.3 We believe that the points we raise in section 5 above offer a more holistic approach to tackling sectarianism across Scotland.

6. Summary

In summary, our main concerns are the risk of further confusion rather than clarity in relation to other related pieces of legislation along with the lack of a joined up approach to support wider understanding of sectarianism and possible solutions to it. We do however strongly support the clear political will and leadership to challenge bigotry, prejudice and discrimination in Scottish society today.

CEMVO Scotland
25 June 2011