

## **Justice Committee**

### **Offensive Behaviour at Football and Threatening Communications (Scotland Bill)**

#### **Written submission from the Grand Orange Lodge Scotland**

##### **Introduction**

1. This submission is made by the Grand Orange Lodge of Scotland. Whilst the Orange Order has rightly refrained from making public comments relating to general or specific football related matters, we feel it is important to comment on this Bill and its wider implications for society. This submission is offered in response to the Call for written evidence by the Justice Committee.

2. The Orange Order wishes to make it clear that it deplores acts of bigotry perpetrated against any groups or individuals in Scotland. Whilst it is an established right to be free of thought, belief and opinion, it is also important that those with different views are allowed to freely celebrate and hold those views. Scotland is a land of many faiths and cultures that for the better part are able to live together harmoniously. However, there is a small minority within our society that refuses to tolerate others. The Orange Order supports valid and appropriate initiatives and legislation that targets those individuals both through education and the law if necessary.

3. It is important in the context of this submission to make clear that the Orange Order does not hold any affiliation to any Scottish football club. Nor does the Lodge support any formal or informal links with any club or clubs.

##### **The Bill – objectives, thrust and implications**

4. It is our understanding that the Bill before Parliament seeks to introduce two new offences into the legal system. The first is to criminalise offensive behaviour connected to football matches and the second, to criminalise communications of a threatening manner.

5. In order for any 'law' to be effective, it must meet two objectives, namely it must:

- be clear in detailing what constitutes an offence
- be easily understood by the public what action might break that law

6. We do not believe that the Bill in its current form meets either of these objectives. Taking the first of these, the current Bill fails to set out clearly what action is sufficient enough to cause an offence. By failing to set this out clearly, it leaves the definition open to interpretation firstly by a police officer, then by a procurator fiscal and lastly by a court. Whilst the court system is designed to interpret the law, this is supposed to be within a clearly defined framework. The definition of an offence in the proposed Bill fails to set out any framework.

7. As regards the second objective, that of being clearly understood by the public what action might break the law, this is a fundamental requirement for a number of important reasons. We assume that Parliament shares our belief that prevention is better than prosecution. If the objective is to stop perpetrators of certain crimes from carrying out those crimes, we need to ensure that they know which forms of behaviour are no longer acceptable. In its current form the Bill takes a reactionary position, only ruling that an offence has been committed after the event.

8. Another serious flaw in a lack of understanding of the law would be the possibility that members of the public with no interest in showing ill will towards anyone may find themselves on the wrong side of the law. We do not think that it is morally correct to allow members of the public to be used as test subjects to define a law that Parliament has failed to determine.

9. We note that the events from the 2010/11 football season have been identified as key drivers in influencing this Bill. It was said that the “The Bill is a specific response to a particular problem that was brought into sharp focus at football matches and on our televisions earlier this year” [The Minister for Community Safety and Legal Affairs – 23 June 2011], and that reports of the trouble in the media was an embarrassment to Scotland. We agree on both counts. However it should be noted that the events being referenced either took place or were as a result of incidents that happened either on the pitch or on the touchline of football matches. This then begs the question of how this legislation will deal with that issue. Indeed, had this legislation been in place during the events that took place, perhaps the Minister or Justice Committee Members could reflect on how the terms of the legislation would have been applied to prevent that happening or to deal with the aftermath?

10. We believe that, however reprehensible the behaviour of the players and managers involved in the incidents in question, it would have been difficult in itself to have brought any prosecutions under the current Bill. Therefore the main stated influence in bringing about this legislation would not have been prevented or punished.

11. As a direct result of the vacuum of information within the Bill of what action will cause an offence, the door is left open to speculation. We note that the Bill seeks to tie together the action of ‘acting in an offensive way’ with that of ‘likely to cause public order offences’. Whilst we can see the need to do so, once again the lack of any specific detail leaves the law completely ambiguous and open to random determination.

12. The singing of national anthems or songs has been raised as examples that might or might not be criminalised under this new Bill. Satisfactory answers could not be provided as to whether or not singing your own national anthem may be an offence. Instead we were told that it depends on the circumstances. The Orange Order would strongly argue that it should never be an offence to sing your own national anthem.

13. Under the terms of the Bill, if a person sang their national anthem on the way home from a football game, and one person found this offensive and reacted in a way that was a public order offence, then the person singing the song would be deemed to have satisfied the loose terms of the Bill and committed a crime. We find this difficult to accept morally and legally.

14. The same argument may be applied for 'Flower of Scotland'. This song could be interpreted as anti-English and as inciting followers to 'rise now'. Whilst we do not accept this interpretation, in what circumstances would this song be deemed illegal under the terms of the Bill? Again, we find the very fact there could be any instance where this song is illegal to be wrong both morally and legally.

15. This point leads on to general perceived anti-English sentiment. Whilst direct discrimination or hostile acts towards citizens of another country is to be condemned, this issue has already been caught up in ambiguity. In football terms, there is a long-established but generally good natured rivalry between Scotland and England. However, recently there have been cases where Police have entered shop premises to warn shopkeepers about stocking T-shirts with the slogan 'Anyone but England'.

16. Whilst a prosecution was not sought, this slogan was deemed to warrant a Police visit. The law was not sufficiently clear to enforce an action, and again it seems that we are poised to introduce new legislation that offers no definitions or parameters to ensure that people are informed regarding what is or isn't an offence.

## Sectarianism

17. We note that the Bill seeks to tackle wide issues surrounding offensive behaviour but concedes that sectarianism will always be seen as the main focus [Policy Memorandum, Para 27].

18. The Orange Order is concerned that the Bill serves as a legal call to action against sectarianism without actually defining the word 'sectarian' or what actions are deemed to be sectarian in nature. A dictionary definition of sectarian is:

### **sectarian** [sɛk'tɛəriən]

1. of, belonging or relating to, or characteristic of sects or sectaries
2. adhering to a particular sect, faction, or doctrine
3. narrow-minded, esp as a result of rigid adherence to a particular sect

Sect is defined as

### **sect** sɛkt)

1. A group of people forming a distinct unit within a larger group by virtue of certain refinements or distinctions of belief or practice.
2. A religious body, especially one that has separated from a larger denomination.
3. A faction united by common interests or beliefs.

19. By these definitions, many legitimate groups could be defined as sects and sectarian in nature. Whilst the Orange Order is supportive of the role of the Church and believes that religion should remain a strong part of our society, we must

concede that most religions could be deemed to be sectarian if tested against the above definitions.

20. Many other groups could also be deemed to be sectarian in nature. There is an argument that political parties are themselves sectarian as they are united by common interests, follow a doctrine or manifesto, and occasionally may be narrow-minded in rigid support of their own beliefs, whilst strictly refusing to accept the views of opposing parties.

21. We give these examples to demonstrate that there perhaps should be further detail provided in the Bill to define what sectarianism will mean in terms of the law.

### **Understanding our culture and heritage**

22. It could be argued that Scotland has evolved quicker than the attitudes of some its citizens. That is probably to be expected. It comes as no surprise that the attitudes of one generation may be very different to attitudes of another. In particular, younger people maybe more accustomed to change than their older counterparts.

23. Whilst the Bill aims to tackle disorder and offensive behaviour, we would advocate that in its current form its reactionary approach will do nothing to tackle the root causes of bigotry in our society. If the Bill succeeds in tackling the issue at football grounds, it will only move the problem on to other locations within our communities.

24. So whilst the football PR may be better, the core issue continues unchecked. We would advocate tackling the issue through education and better integration and inclusion within our communities and schools.

25. We teach children how to segregate on purely religious grounds at an early age when we divide communities into separate schools. We have heard the counter-arguments on this issue many times. However, in the context of this Bill which relates to football, we need to ask the question - why do so many Roman Catholic children support Celtic FC, and so many Protestant children support Rangers FC? General evidence on the formation of attitudes and opinions seems to suggest that the greatest influences come from our peers and are formed at a young age.

26. When we give our children a reason to divide, should we be surprised that some take these divisions to a deeper level than others?

27. We need to better understand what factors fuel the divisions and act proactively, rather than developing reactionary legislation that criminalises sectors of society.

28. We need to understand why some of those who may be singing bigoted songs at a club football match can then be seen arm in arm singing together at an international match.

29. The Orange Order has been part of the culture of Scotland for over 200 years. There are lodges throughout Scotland and a membership base of around 50,000 people from all walks of life. However, the Orange Order is often defined by its parades and the negative actions of a small band of non-members who sometimes attach themselves to parades. These people are not wanted; and our efforts over the past few years have gone into working with the Police and Local Authorities to tackle this issue.

30. At the same time, the Orange Order has made efforts to be more open and to educate others on the beliefs and ideals of our organisation. Whilst there is a long way to go, we can clearly see that education is the way forward. As we tell people why we exist and what we believe in, we see a greater understanding and tolerance of our principles and ideals. Whilst many do not share our views and opinions, they respect our right to hold those beliefs and to celebrate our traditions.

31. We believe that a better understanding of each others faiths and points of view as part of a less divided society will tackle bigotry both at football matches and deeper in communities.

## **Conclusion**

32. The Orange Order believes that the current Bill asks more questions than it answers. Due to the vague wording, lack of detail, and failure to define what might cause an offence, the public will struggle to understand the law.

33. The current terms of the Bill, together with recent verbal responses from the Minister responsible, have made it clear that there may be circumstances when British citizens are prosecuted for singing their own national anthem. This cannot be accepted under any circumstances.

34. The people of Scotland, with its many faiths and cultures, get along pretty well. There is only a small minority who continue to act on religious divides that they probably know little about; other than the fact that 'he went to a different school'.

35. We should be wary of elevating the status of these bigots and creating a new 'ASBO badge of honour' culture where their fellow bigots see a sectarian crime as something of which to be proud.

36. Legislation should be written to offer the courts a clear set of guidelines upon which to operate. The ambiguity of this Bill creates a three tier level of personal judgement on whether or not a crime has been committed – the Police, the Procurator Fiscal and the Courts.

37. The Bill fails to define what an offence may be – it is unworkable to ask the public to abide by a law but fails to say what that law is.

Grand Orange Lodge Scotland  
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