Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from the Muslim Council of Scotland

The Muslim Council of Scotland (MCS) is grateful for having the opportunity to respond to the Justice Committee call for evidence on the Offensive Behaviour at Football and Threatening Communication (Scotland) Bill.

MCS is a membership-based umbrella organisation, which accommodate and reflect the variety of social and cultural backgrounds and outlook of the Muslim community. It is an independent body working to promote consultation, cooperation and coordination on Muslim affairs in Scotland. It is a non-sectarian and non-partisan body working for the common good.

We welcome the opportunity to contribute to the Bill and appreciate the government’s decision to extend the consultation period from June original deadline.

We keep our response very brief and focus on the general points especially relating to Communication.

General Points:

We welcome the strong messages this Bill gives in relation to the insidious nature of sectarianism and that such behaviour is not to be tolerated. However we believe that the Bill should not be confined only to football related incidents and that the Bill should cover all offensive behaviour/communication which would be creating community divisions. Examples of offensive incidents and communications driven by islamophobia and anti-semetic ideas are too many to mention.

We condemn any behaviour and beliefs which foster hatred of any individual or group. All persons are entitled to respect and to live without fear and harassment intimidation. Citizens carry responsibility for exercising their freedom responsibly and for contributing to harmonious relations.

We would firmly support comments made by other organisations in relation to missed opportunities to extend the Bill beyond football related incidents.

We believe that the best means of achieving the stated aims of the Bill is to ensure that any legislative change reflects the experience of the full range of equalities groups, and is supported by a comprehensive programme of human rights education, ensuring that every child in Scotland has the opportunity to learn respect and tolerance for others.

We also believe that the government and civic bodies should give leadership in this area through education and support of the collective work by many voluntary organisations.
Socially responsible media whether large organisations or individuals on electronic social media are also very much an effective part of the society which can help stamp out offensive behaviour and reduce offences.

As recent events have shown proper media regulation is urgently needed, it is not part of this Bill but should be promptly considered.

On the balance between freedom of expression and community harmony, we welcome the policy intention that underlines the Bill. However, we would like the provisions of this Bill to be in conformity with the Convention of Human Rights, and especially are clear, precise and foreseeable in its application. It is important that the Bill strikes the right balance between the protection of public order and human rights such as the ‘responsible’ freedom of expression.

The Bill and government activities should aim to act in a preventive way beyond the protection of public order in order to maintain and support the community cohesion and harmony.

The right to freedom of expression is not absolute, it is a qualified right. As Article 10(2) of the EHRC provides: “the exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of … public safety, for the prevention of public disorder or crime…”

The intention of the offence is to be welcomed, particularly the recognition that sectarianism is not the only source of threats or offensive behaviour that occurs at football matches or other gatherings. The offence should cover all equality characteristics.

A major example of this is our own experiences with the Far Right organisations and individuals, such as English Defence League etc. There is a good link established link between these groups and football hooligans.

While there is some difficulty in listing the different circumstances in which a communication would not be considered incitement in order to protect freedom of expression, the present Bill provision of the use of a reasonable person test is so difficult to apply and will potentially lead to many inconsistencies. It is not clear who is the person to apply the test and at what stage of the proceedings, is it the police, the prosecutor or the court.

Muslim Council of Scotland
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