

Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from the Rangers Supporters Assembly

I write in response to your call for evidence with regards to the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill. In particular I would like to address your interest in hearing views from organisations and bodies on the Bill's proposals and their likely impact, and also about any issues that respondents consider may have been omitted from the Bill.

The Rangers Supporters Assembly find favour in the overarching intentions of the Bill which, according to the policy memorandum, are to prevent "offensive and threatening behaviour related to football matches" and to prevent "the communication of threatening material." However, we have grave concerns as to the intentions of the Bill in its present form and equally deep concerns as to whether this Bill in its present form will address the issues that it seeks to, or whether it will have a contrary effect in creating more confusion, anger and division.

1) General Comments

We find the haste of this Bill to be ill-advised. We consider that there has been a grave lack of appropriate Parliamentary consideration and consultation on this Bill, and that due time should be allowed in order for Parliament to bring forward a fully considered and effective piece of legislation.

At what would appear to have been a panicked and last minute effort of stakeholder engagement, similar concerns were raised by many of the attendees at the "Engagement Event" on the 17th June 2011 in the George Hotel, Edinburgh. To our mind, many key stakeholders were not in attendance, and invitations were received as late as 16th June. At the event, Aiden O'Neill Q.C., who we believe to be a leading Human Rights lawyer, put forward the opinion that "it is the worst drafted Bill I've ever seen." Furthermore, he remarked that there were at least half a dozen fundamental rights of the citizen which were being breached by the terms of the Bill.

Aiden O'Neill Q.C. further put forward the opinion that most of the behaviour which the Bill seeks to address could quite easily be dealt with by the application of existing legislation. This point was also substantiated by Dr. David McArdle, a Senior Lecturer in Law at Stirling University, who has researched substantially in the areas of football legislation, such as Football Banning Orders. His opinion was that every offence which the Bill seeks to create is already an offence under existing legislation, and furthermore that the five year and unlimited fine penalties were already available to the courts. The Law Society has issued a statement stating that the Bill is being pushed through too quickly and that the lack of scrutiny could result in legislation that may be open to successful challenge in the courts.

Recommendation:

We therefore ask that the haste of this Bill be addressed, and that due time should be allowed in order for Parliament to bring forward a fully considered and effective piece of legislation, as in normal with Criminal Law legislation.

2) General Comments - Sectarianism

We have deep reservations about the intention of the Bill, and note that, while the Bill does not feature references to “sectarianism” there are numerous references to “sectarianism” within the policy memorandum. As such, further transparent clarification on what the Scottish Parliament’s understanding of the term “sectarianism” should be stated. Furthermore, the Bill is being generally referred to throughout the media and by the general public as the “Anti-Sectarian Bill.”

Recommendation:

A policy memorandum should not have repeated references to a subject matter that is not a subject referred to in the Bill. Should the Bill therefore be addressing sectarianism by stealth, we would ask that a transparent definition of the term “sectarian” be included within the Bill, for example in section 4

3) General Comments – Specific Definitions such as Religious Hatred

There are many actions at football matches, and indeed outwith football matches yet still within a footballing context that may be deemed to constitute “offensive behaviour. There are regular chants and songs sung at football matches which glorify Irish Republican terrorist organisations. The effect on fans that have lost loved ones due to the actions of these groups can easily be understood. There are songs and chants at football matches mocking the deaths of opposing fans, such as Aberdeen fans mocking those who died in the last Ibrox Disaster. There are songs and chants mocking our Armed Forces, and banners such as “No Blood Stained Poppies on Our Hoops.” For fans who have lost family members serving in the Armed Forces, or whose loved ones are presently on active service, such actions are deeply offensive, and are certainly every bit as offensive as many of the other specific categories which feature within the Bill.

In a Bill which seeks to address such a contentious issue, it is appropriate and necessary that this subject matter is approached in an even-handed and transparent way. We are concerned that, while the Bill makes particular references to “religious hatred”, as it should, no reference is made to, for example, singing or chanting which glorifies the IRA and Provisional IRA, or deeply offensive singing or chanting which mocks those who have died in the service of our country.

Recommendation:

We ask that, in seeking to address specific behaviours, the Bill adopts an even-handed approach. We ask that glorification of, and open support for, terrorism, terrorist groups or terrorist actions be defined in Section 1 (2) of the

Bill. We ask that unpatriotic singing chanting and banners, mocking the Armed Forces be equally addressed in Section 1 (2) of the Bill.

4) Transparency and Guidance

In a Bill which seeks to address issues of such a divisive nature, we see it as vital that transparent guidance is produced by the Scottish Government, and that the Scottish Parliament should have an advisory role in ensuring that such guidance is fit for purpose.

On matters of such significance, it should not be for the courts to make judgement on what is deemed to be offensive, nor should it be for concerted campaigns by fan groups to raise awareness of particular events. It should be the role of the Government and Parliament to set out guidance that is easily understood by fans, the Crown Office, the Courts and the Police.

Recommendation:

We ask that accompanying guidance for the Bill be developed in constructive consultation with all stakeholders and that the Scottish Parliament oversee such guidance ensuring that it is fit for purpose, balanced and fair to all parties.

5) The Media

In addressing communications, we are of the opinion that the Bill fails to address the pivotal role that the media – such as chat shows and populist newspapers – plays in perpetuating division between opposing fan groups.

This season, despite general opinion, has not led to any increase in criminality or indeed any increase in arrests made within the footballing environment. In actual fact, in comparison to previous seasons, this past one has been fairly quiet. There were, however, three key incidents. One was the sending of threatening packages to Neil Lennon, Paul McBride Q.C., Donald Findlay Q.C. and former MSP Trish Godman. The individuals responsible for some of these offences have been apprehended and they will be dealt with under existing legislation as they quite rightly should. Another incident involved the attack on Neil Lennon by a Hearts fan, who is equally being dealt with under existing legislation. The third event was a more or less harmless spat between Neil Lennon and Ally McCoist at the end of a Rangers v Celtic game. In all instances, the media coverage was nothing short of moral panic. It was not intended to address any particular issue, to raise public awareness nor to provoke Government action. In our opinion, the excessive media coverage was designed solely to sell newspapers.

We believe that part of the job of this Bill should be addressing such matters, ensuring a less divisive footballing environment within Scotland.

Recommendation:

We believe that the Scottish Parliament should urge the Scottish Government to investigate the nature of media coverage of football, and of footballing events as reported by the media, thereafter seeking a Memorandum of Understanding to be agreed with the Scottish media in order to foster a less divisive and fraught environment for our National game.

6) Economic Impact

We note from the Financial Memorandum that “the Scottish Government does not envisage additional costs associated with the introduction of these measures.” We are not convinced that this has been adequately scoped out. We certainly have reservations concerning a document presented to the Strathclyde Police Authority by Strathclyde Police.

<http://www.strathclydepoliceauthority.gov.uk/images/stories/CommitteePapers/FullAuthority2009/2011/21Apr2011/item%2015%20-%20charging%20for%20use%20of%20police%20resources%20deployed%20at%20football%20matches.pdf>

From previous press releases by Strathclyde Police, we do not see this as purely coincidental with the timing of the Bill. Strathclyde Police have previously blamed “Old Firm” matches for numerous problems including spikes in domestic abuse incidents and serious assaults.

It is our opinion that to solely blame Old Firm matches for the social problems on given match days in general is grossly misleading. Equally, to impose severe financial burdens upon football clubs is grossly unfair. There is no doubt that more profit is made from the sale of alcohol on match days than that which football clubs make. Why is Strathclyde Police instead not actively seeking to penalise purveyors of alcohol?

Recommendation:

We believe that the Scottish Parliament should urge the Scottish Government to investigate the causes of crime on football match days and publish its findings. We would also urge that appropriate measures be put in place to reduce that crime including apportioning appropriate financial levies or restrictions on the source of such causes, thus ensuring that football clubs do not wholly bear a disproportionate cost for policing of matches.

7) Summary

In summary, we would like to thank the Justice Committee of the Scottish Parliament for considering our thoughts and we would urge the Committee that it fully considers the implications and effects of the legislation in its present form. We would also hope that the Scottish Parliament will be able to bring forward an amended form of the current Bill which will fulfil the overarching objectives which it sets out to achieve. As a final note, we wish that the Committee would note our sincere willingness to

work together with either the Scottish Government or the Scottish Parliament in creating a less divisive environment within Scottish football and in doing so create a fair and even-handed footballing culture for Scotland.

Andy Kerr
President
Rangers Supporters Assembly
21 June 2011