Justice Committee

Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill

Written submission from Anonymous 12

1. Do you agree with the proposal in the Bill to repeal the 2012 Act? What are your reasons for coming to this view?

I think it is of the utmost importance that this Act is repealed. The Act is terribly flawed, discriminatory and has been widely criticised by members of the legal/justice system as well as universally opposed by all political parties outwith the SNP.

2. Did you support the original legislation?

No, it has always been my view that the legislation is unfair and dangerous.

3. Do you consider that other existing provisions of criminal law are sufficient to prosecute offensive behaviour related to football which leads to public disorder? If so, could you specify the criminal law provisions? Or does repeal of section 1 risk creating a gap in the criminal law?

There was definitely existing legislation which was sufficient to cover criminality related to football matches as evidenced by pre-existing arrests/charges prior to the introduction of OBAF. Breach of the Peace and Section 74 of the Criminal Justice (Scotland) Act 2003 are two such examples. Both laws were sufficient and remain sufficient.

4. Do you have a view on the focus of section 1 of the 2012 Act, which criminalises behaviour surrounding watching, attending or travelling to or from football matches, which may not be criminalised in other settings?

My view is that this is discriminatory. It is an absurd notion that a type of behaviour may be considered criminal in the context of a football match but no other context - be that at another sport like rugby, at the theatre or simply walking down the street. Criminal behaviour should be criminal behaviour irrespective of the context.

5. Do you consider that other existing provisions of criminal law are sufficient to prosecute threats made with the intent of causing a person or persons fear or alarm or inciting religious hatred? If so, could you specify the criminal law provisions? Or does repeal of section 6 risk creating a gap in the criminal law?

Section 6 of the legislation has barely been utilised, most likely because it is not necessary. I do not believe that it would be noticed never mind missed should it be repealed.

6. Do you have a view on the proposed transitional arrangements in the Bill: that there should be no further convictions for section 1 and 6 offences from the date on which the repeal of those offences takes effect; and that the police
will cease issuing fixed penalty notices at least from the point at which the Bill is passed?

The Act should cease to be implemented with immediate effect. Not only that but all existing cases which have not yet been concluded should be dropped and any previous conviction under the legislation should be removed. The law has been outrageously unfair, disproportionate and discriminatory from the outset. It has proven to be so in practice. Once it is repealed there should be an admittance and acceptance that many people had been wrongly criminalised as a result and action should be taken to right these wrongs.

7. To what extent do you consider that the 2012 Act has assisted in tackling sectarianism?

Sectarianism has blighted Scottish society for centuries and is still evident today. Education is the key to tackling sectarianism and not legislation, certainly not legislation which causes more division and resentment than had previously existed. Previous legislation was sufficient in prosecuting sectarian behaviour and the same legislation can still be utilised. I disagree entirely that by criminalising behaviour deemed 'offensive' you are tackling sectarianism. If anything, you are clouding the issue of sectarianism instead of tackling it. Instead of getting to the crux of sectarianism you are lumping a whole load of subjective and ambiguous baggage into the issue thus making it more difficult to tackle.

17 August 2017