Justice Committee

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

Written submission from Anonymous 31

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

Yes. I believe the Bill was rushed and ill-thought out. It unfairly criminalises people who would otherwise be seen as law abiding citizens. The Act has caused a huge amount of confusion and fear among football fans.

2. Did you support the original legislation?

No.

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?

Repeal of section 1 will not leave a gap in the law. Section 38 of the Criminal Justice and Licensing Act states it is an offensive to behave in a threatening or abusive manner. The Public Order Act states it is an offence to use threatening, insulting words or behaviours towards another person. The Offensive Behaviour at Football and Threatening Communications Act covers similar but only if it happens at a specific time before, during or after a specific sporting event. The afore mentioned laws are in effect regardless of any football match taking place, they are sufficient to prosecute offenders in a range of matters, from verbal insults to rioting.

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?

I think having a law which is solely based around attendance of football matches is unjust. It is unfair and confusing that some behaviour may be viewed as acceptable most days of the week until there is a football match being played. The Act effectively only comes into force two or three days a week and creates a grey area. There should be clarity, not confusion.

The Act leaves a lot of people who do not have a criminal history in the police spotlight. It has created a culture of fear among football fans. Normal, law abiding people are now worried they may be the focus of a police enquiry. They are worried they will be arrested in a dawn raid like many others before them. They are worried of the untold stress it will cause them and their family. They are worried about the future of their employment should they be found guilty. They are worried about the high level of media interest in these cases. They are worried about being named publicly regardless of the outcome of the trial.
The court process is too long, and some of those arrested have to use unpaid leave and holidays to attend court, and have had personal relationships, employment and finances suffer as a consequence.

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?

I don’t believe the repeal of section 6 would create a gap in criminal law. Section 6 has rarely been used by the police. This shows other legislation covers these issues effectively, such as the Communications Act 2003 or section 74 of the Criminal Justice (Scotland) Act 2003.

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?

I believe the Act should cease with immediate effect when the repeal is passed. I agree with the transitional arrangements proposed in the Bill. I would also be in favour of all previous convictions being quashed as the law should not have been enacted in the first place. Those convicted should be able to move on with their lives and not have the fear of losing out on future employment due to their criminal record when the law no longer exists.

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

I don’t think the Act has had any positive effect in tackling sectarianism. It covers such a vast array of offences, most are unrelated to race or religion. Most charges are unrelated to race or religion.

An all-encompassing law shoehorned through parliament after a high profile football match is not the answer to ending sectarianism in Scotland. Sixteen people were charged for offences of a sectarian nature at the so called “Shame Game”.

Sectarianism needs eradicated through education, a blanket law does not do that. Sectarianism does not only occur 2 hours before, during and 2 hours after a football match when the Act is in place. It’s unfortunately in all aspects of society.

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