Justice Committee

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

Written submission from Anonymous 53

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 know individuals with young families who have been arrested under the Act and suffered the life changing consequences of that, and I find it abhorrent that in 2017 we have a law in our country which only applies to people who chose to attend football matches. Football matches are not a suspended reality and to have a law which only applies to football supporters is inherently divisive and promotes victimisation.

Another reason why I believe the Act is unworkable is the notion that a football support can be arrested on the basis that “a reasonable person” might be offended - and in turn, turning real peoples’ lives upside down based on conjecture and subjective reasoning. I find it really surprising that in our supposed progressive country that such legislation was ever allowed to be operational.

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?

Yes, examples of legislation which covers these issues would be: common law Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010;

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?

Covered in section 1.
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 understand that section 6 is rarely used and that prosecutors would regularly use the Communications Act, 2003 for alleged offences of this type.

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 that the repeal should be in effect immediately and that previous convictions should be quashed. I strongly believe that people charged and convicted under this unworkable legislation should not be inconvenienced any more than they already have after its repeal.

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

Sectarianism is not an issue exclusive to football. In fact, with this legislation we have a situation where something deemed to be sectarian by the police in a football ground, might not be deemed to be sectarian away from the ground. In terms of tackling sectarianism, I would say it has only muddied the waters.

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