Justice Committee
Offensive Behaviour at Football and Threatening Communications (Repeal)
(Scotland) Bill
Written submission from Dr Peter R Ashby

1. Do you agree with the proposal in the Bill to repeal the 2012 Act? What are your reasons for coming to this view?
No, the act is needed and proportionate.

2. Did you support the original legislation?
Yes

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 would remove the likelihood of the successful application of the aggravating aspects of sectarianism. The aggravations of racism, sexism, homophobia etc have been successful in helping to reduce such offending. Why should offending during football be any different?

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?
There is a risk that behaviour in those situations could be seen as normal or routine and hence not prosecuted by police. Section 1 reminds police that this is not the case.

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?
It is more a matter of cutting through the normalisation of this behaviour in the football context. The repeal call ignores this factor of Scottish life, something ordinary police officers are not immune to.

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?
No, because the successful prosecutions to date show the legislation is working. These were in addition to the other provisions in law.
7. **To what extent do you consider that the 2012 Act has assisted in tackling sectarianism?**

It ceases to normalise the offensive behaviour. With football as the last remaining part of ordinary life where such behaviour was tolerated the lack of a specific provision around it entrenched that this behaviour was acceptable. The more areas where such behaviour is tolerated the longer it will persist. If the offensive behaviour was colour racism we would not be having this discussion.

Dr Peter R Ashby
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