Justice Committee

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

Written submission from Maureen McBride

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 have believed from the outset that the Act is flawed and unnecessary, so I am in full support of its repeal.

2. Did you support the original legislation?

No (as above).

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?

I am of the opinion that existing provisions of criminal law (which are still utilised by police to prosecute offensive behaviour relating to football) are sufficient. These are: Section 74 of the Criminal Justice (Scotland) Act 2003, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010, and common law Breach of the Peace. I don't believe that repealing section 1 risks creating a gap in the criminal law.

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?

Yes, I believe it to be wholly unfair that football supporters are treated differently to other sections of society through this legislation, for example rugby supporters, large crowds attending concerts or other large events, or marching groups.

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?

As section 6 has hardly been used, I don’t think that this risks creating a gap in the criminal law. Responding to increases in online threats or hate behaviours is something that extends far beyond football, and if this is something that the criminal justice system wishes to pursue (i.e. if it is felt that the Communications Act, 2003 is insufficient) it should not be attached to a piece of legislation aimed at football supporters.
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 don’t believe that the proposed transitional arrangements go far enough, as I argue that if it is felt this law is unjustified, anyone who has been previously convicted under it should have this removed from their records. In my research, I have seen the effects that being convicted under this Act has had on people with no previous convictions. At the very least, there should be no further convictions and a cessation of fixed penalty notices.

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

I don’t think the Act has assisted in tackling sectarianism (worth noting that the term sectarianism is not mentioned in the legislation). If anything, it has created division (particularly between fans and police) and undermines anti-prejudice work carried out in schools and communities.

Maureen McBride
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