Justice Committee

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

Written submission from Paul Thomson

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I agree the Act requires to be repealed. It is inherently discriminatory, ill designed and essentially duplicates legislation already in place to deal with disorder of the type it attempts to tackle. It was created as a political knee-jerk to a particular football game and rushed into law without effective consultation or consideration.

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?

Whilst I am not a legal expert, my understanding of existing criminal legislation concerning public order and offensive behaviour is such that I believe the 2012 Act does little if anything to further improve legislative coverage. Examples being Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. All of the above and other existing legislation is I believe more than adequate for handling football related issues.

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 believe this to be discriminatory towards football fans in general. I also believe that the Act is selectively interpreted and policed/ prosecuted, having observed multiple instances of offensive behaviour at football matches since implementation, both personally and via social media/TV footage, where police in close proximity have chosen not to intervene despite the terms of the Act most definitely having been triggered in relation to ‘offensiveness’. When you have a situation where Police can arbitrarily choose what to consider ‘offensive’ in relation to a person’s activity, then further choose to blatantly ignore activity which others find horrendously offensive, it’s clear that the inconsistency at play can’t be reconciled.
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?

Again I am not a legal expert but I do not see how this Act further enhances existing criminal legislation without itself creating discrimination against one group within society. I understand legislation such as the Communications Act 2003 to be sufficient in existing form to cover offences in this area. Section 6 seems to be very selectively applied and prosecuted, again the failure of the Act to date in my opinion can be demonstrated by the total inconsistency of application evidenced by Police and PFO.

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 think the earlier the effects of this ill-designed Act are no longer felt, the better.

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

Zero impact. Scottish Government statistics show significant year-on-year increases in hate crime offences with major increases in football-related crimes in this area. Whilst it can be argued the increase in charges can be seen as a positive enforcement of legislation, my own view is that the Act has embedded an entrenchment amongst some which has manifested itself in huge increases in sectarian chanting and vicious personal abuse at football games, which I’ve personally witnessed on multiple occasions. It’s particularly galling to watch this happen with mass impact and police choosing to do nothing about it, again something which has been evidenced on multiple occasions since the implementation of the Bill. The legislation is inherently unfair, and leaves the choice to Police of what they personally feel to be ‘offensive’ on any given day. The need for effective policing of sectarian activity in Scotland has never been greater than it is now, 5 years after this Act was supposedly going to tackle it. Pretending the problem only exists amongst young football fans rather than tackling blatant manifestations of sectarianism in mass settings away from football grounds makes the supposed rationale behind it ever more apparent as a political, not a moral or social, issue.

Paul Thomson
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