Justice Committee

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

Written submission from Clare Kennedy

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. The bill has been dismissed by members of the judiciary, Supporters Associations and members of political parties across the spectrum. It has proved unworkable and has a very low rate of successful prosecutions. It has been deemed to have increased the sectarianism rather than its desired effect.

2. 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. Existing legislation e.g. 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 cover any issues which may arise in the environment of football grounds and are sufficient to be applied in the cases that have for example already been though the judicial system.

3. 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?

This is discrimination pure and simple. It targets young men in particular whose only crime is to attend/watch a football match. Behaviours which when for example are exhibited on public streets at events such as various ‘walks’ go unheeded or indeed ignored by Police Scotland. This is in my opinion a breach of equalities legislation.

4. 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?

Since the instigation of the Act, Section 6 has barely been used and indeed prosecuting authorities have instead used other legislation e.g. Communications Act 2003. There is in my opinion no gap. It is merely a knee jerk government reaction to 1 football match years ago.

5. 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?

The Act should be repealed with immediate effect. Cases that are not concluded should be dropped and previous convictions should be quashed. This is based on my view that an act which discriminates against one section of the population should never have been enacted in the first place.

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

This bill has done more to foster and harbour sectarianism in Scotland than anything I can remember in my 63 years on this earth. Young people being alienated form the police. People losing their jobs and reputations despite being found not guilty is nothing short of Scotland’s Shame. It is a disgrace and should be repealed immediately.

Clare Kennedy
11 August 2017