Justice Committee

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

Written submission from Paul Farrelly

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 Act is discriminatory against football fans. There is sufficient other provisions that adequately deals with sectarian behaviour.

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. Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 adequately covers issues at football.

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?

Any law which discriminates on the basis of where you commit an offence is simply ridiculous!

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?

Yes. Section 6 has hardly been used in the whole period since it was enacted and police and prosecutors regularly use other legislation eg Communications Act, 2003.

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?

Repeal should be with immediate effect. Previous convictions based on flawed legislation should be quashed.
7. To what extent do you consider that the 2012 Act has assisted in tackling sectarianism?

It has had no effect whatsoever in tackling sectarianism. Indeed, the flawed legislation has been implemented at a time when sectarianism appears to be on the rise, with the majority of sectarian related crime being committed against Catholics.

Paul Farrelly
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