Justice Committee

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

Written submission from Paul Cavanagh

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. Since the Act came into place I, and many football fans have been victimised and wrongly singled out. I have witnessed first-hand police intimidation, verbal and physical abuse, and a general heavy handedness in dealing with football fans.

The crimes the Act is supposedly intended to affect can be covered in existing laws.

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, they are. It is beyond doubt that they do.

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).

In my opinion these can cover all crimes at football which the Act is supposed to tackle. I have not yet heard of an instance where existing law could not be used, and would challenge anyone to provide a case where existing law could not be applied.

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?

Why should something be legal outside a football stadium, or travelling to etc, yet be illegal in the context of football? It is unjust and secularises football fans in the most basic of unfair ways.

Laws which apply to one sector of society, whether that be based on race, religion, belief or sporting preference is should not be tolerated. If such an Act was proposed to say, one particular religion, it would be shot down immediately. Why should this be any different in this instance?
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?

Section 6 has hardly been used in the whole period since it was enacted and that police and prosecutors regularly use other legislation, such as the 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?

No further convictions and each and every pending case dropped and charges cleared for all those who have been found guilty.

Do not be misled. This has been a tool used by Police Scotland to abuse power and inflict as much disruption to the lives of football fans since the Act came into play.

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

Simply put; it hasn’t. I see/read/hear as much sectarianism now as I did before the Act. And it should be said that the majority of this is undoubtedly aimed at Irish Catholics. To tackle sectarianism in Scotland, not only in football, those with the powers to create laws must firstly have a deep understanding of what ‘sectarianism’ means in Scotland, and what it looks like. They must face up to the facts. Sectarianism towards Irish Catholics is deep rooted in this country. This infiltrates football, however rather than call out the reality of the situation, the SNP would rather put something in place which does nothing but damage fan relationships with police, encourage heavy-handed policing and in many cases fuel the problem.

Paul Cavanagh
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