Justice Committee

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

Written submission from Alan Smith

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 and support the proposal to repeal the 2012 Act. The 2012 Act was a piece of legislation which should never have made it to law. The hastily arranged manner of which it was passed, was symptomatic of the approach taken by the government of that time and a knee-jerk reaction to an incident which received over-blown media coverage. The government at the time forged ahead with this legislation and was badly advised by an out of touch Mr House of Police Scotland. Like Mr House, this legislation has no place in Scottish law, and never should have.

Another reason is that the law is discriminatory against a subculture. It reinforces a false stereotype on the sub-culture and has created a divide between the subculture and authority (in this case Police Scotland and Scottish Government) when both the subculture and authority should be working together to help with the understanding on the subject that the 2012 Act is supposed to be aiming to eradicate. The divide is also being widened by the “tactics” employed by Police Scotland since the introduction of this act. Sadly, through their own hubris, the Scottish Government have been enablers and facilitators in all this.

It is a sorry state for a government who portray “forward thinking”. I would love for someone in government to say what is so “forward thinking” about destroying the lives of predominantly young people. Again, this government are falling over themselves to promote how important our youth are, while enabling their social and economic destruction through the policing of this act.

After all the hassle and harassment, then we reach the court stage, where Sheriffs and Judges are dismissing cases because of the inability by the Scottish Government to offer a clear definition of the level of offensiveness in the legislation.

As a result, we have a police force making arrests and then a law court unable to implement legislation, because it’s flawed. This flawed process is another reason why the 2012 Act should be repealed. We have a law which is unworkable when the accused can defend themselves properly with argument.

The case below highlights the above and another issue.

A quote from the accused:

“He insisted he meant no offence and added: “I will never go to another game in Glasgow, Scotland or the UK.”

Like it or not, Football Tourism plays a part in Scottish Economy. Only mentioned when it suits the Scottish Government may I add. So what message and image do we send out to this subculture from around the World.

I have friends and relatives who work with the Police force in this country. From the outset, they have expressed concern over the unworkable nature of this legislation. If those who are to implement the legislation have reservations over the consistency and application of the legislation. Then how are the Scottish Government not listening to this. If they have and are choosing to ignore this, along with the other dissenting voices. It only re-enforces my view that this government would rather save face or try to avoid any potential embarrassment. Than do what is right, for the good of the people they are supposed to represent.

My biggest issue is the legislation will do and has done nothing to address the issue that it alleges to tackle.

2. Did you support the original legislation?

No. I had an e-mail exchange with my local MSP Kenneth Gibson at the beginning of the process. The exchanges from Mr Gibson were the same tone and narrative that has been displayed by this government and frankly embarrassing from a member of the Scottish Parliament.

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?

The “breach of the peace” provision has been in use and used in football grounds for years. Scottish Government stated that “Breach of the Peace” isn’t sufficient enough to gain prosecution. Other experts argued otherwise.

As for a repeal creating a gap in criminal law, that is for other individuals to come up with a solution, should that be the case.

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 find it staggering that a government, media and others find it acceptable and supported this process. Deeming that a subculture of society is worthy of inequality.
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?
See response to Q.3

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 agree with the statement.

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

In short, it hasn’t.

To expand on that, the Scottish Government passed a poor piece of legislation which paid lip-service to tackling sectarianism.

The legislation has in no way addressed sectarianism or tackled it. The problem should be addressed by educating and not intimidation or criminality.

Alan Smith
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