Justice Committee

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

Written submission from Celtic Football Club

About Celtic Football Club

Celtic Football Club was founded in 1888 with 2 main aims. The first was to raise funds to provide food for the poor of the East End of Glasgow. The second was to use football as a vehicle to improve social integration and reduce friction between the growing Irish community in the East End and the native Glaswegian population.

The Club is proud of its Irish links and heritage. Its business is run on a professional basis, with no political agenda. It recognises its wider role and responsibility as a major Scottish social institution promoting health, well-being and social integration. Its aims remain consistent with those on which it was founded and it seeks to maximise opportunities to disassociate the Club from discrimination, sectarianism and bigotry of any kind and to promote Celtic as a football club for all people regardless of gender, age, religion, race, or ability.

Celtic Football Club is committed to tackling and eradicating unacceptable behaviour at its stadium. The Club participated fully in the Joint Action Group formed in July 2011 and was involved in the consultation process regarding the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill.

The Club’s detailed submission to the Justice Committee in 2011 recognised the importance of the issues, but indicated the Club’s concerns regarding the proposed legislation, including; the potential for discrimination against football supporters, the potential for confusion in applying and enforcing the legislation, and issues around the extra territorial reach of the legislation. In short, the Club did not support the legislation in so far as it related to offensive behaviour at football.

In responding to this call for evidence by the Justice Committee, the Club summarises its concerns regarding the legislation, its implementation and effect.

Offensive behaviour at football (the section 1 offence)

As explained in its submission to the Justice Committee in 2011, the Club’s main concerns with the legislation are:

The potential for discrimination against football supporters.

The vast majority of football supporters in Scotland are law abiding. Although the Joint Action Group agreed that the behaviour which is of concern, and the issue of sectarianism in particular, is a wider problem for Scottish society, the legislation was targeted at football supporters. The legislation criminalises individuals by virtue of being football supporters. This discriminates against football supporters. In principle, the law should not treat conduct differently depending on whether the conduct
happens to be linked to a football match. Individuals should not be subjected to a different standard merely by reason of being a football supporter one day, and an “ordinary” citizen the next.

The potential for confusion in the application and enforcing the offence.

Given the nature of the “offensive behaviour” offence in section 1(2)(e) of the Act, the Club had concerns regarding the application and enforcement of the offence. The Club was concerned that together, the wide definition of “offensive behaviour”, the test of the “reasonable person”, the requirement that the behaviour is “likely to incite public disorder”; and the application to behaviour such as singing and banners would run the risk of the law becoming unenforceable or brought into disrepute.

Issues around the reach of the legislation outwith Scotland and the application of that to supporters travelling abroad.

The legislation has wide extra-territorial reach. The Joint Action Group had sought to concentrate on changing behaviour, with a focus on offending and issues domestically. The Club had concerns regarding the difficulties arising in connection with the application and enforcement of the legislation outwith.

The Club’s concerns regarding the section 1 offence.

The Club’s concerns regarding the legislation remain. Press coverage of certain cases, the statistics published and information received from Celtic supporters support the view that the concerns identified above have arisen in connection with the legislation. In addition to the concerns regarding the application and enforcement of the legislation, the Club considers that there is evidence that the legislation has impacted the relationship between supporters and Police Scotland as well as the relationship between supporters and the Club.

Impact on the relationship between supporters and Police Scotland.

Information from the Club’s Supporter Liaison Officer, who works closely with Celtic supporters, suggests that the relationship between some Celtic supporters’ groups and Police Scotland has deteriorated as result of the legislation and the application and enforcement of the legislation.

Specifically, concerns were raised by supporters in relation to:

- What was regarded to be excessive police numbers and surveillance, including the use of
- Video cameras.
- Supporters’ buses being stopped more regularly for search.
- Searches being “heavier”, and young children being searched.
- The use of police dogs at away matches.
- Uncertainty regarding the scope of the “offensive behaviour” offence.
- The perception that information was being shared between the Club and Police Scotland (see below).
Supporter groups refused to attend at meetings organised by the Club’s Supporter Liaison Officer with Police Scotland and FoCUS, which were intended to assist understanding of the application of the legislation. The supporter groups indicated that this was a result of a breakdown in trust in, and the relationship with, Police Scotland. As a result, Club representatives met with FoCUS and sought to pass information back to supporters’ groups. As noted below, this is not a role that the Club should be involved in on an ongoing basis. More recently, representatives of some supporters’ groups have met with Police Scotland, but the relationship remains sub-optimal.

Generally, supporters raised concerns regarding what they regarded as the “criminalisation” of being a football supporter. Concerns were also raised regarding the perception that Celtic supporters were being targeted, in circumstances where it is felt that the use of the legislation in relation to Celtic supporters often related to the “offensive behaviour” offence, which was not considered to be unlawful prior to the legislation, whereas the supporters of other football clubs were being charged with offences that would previously have been covered by existing Breach of the Peace charges.

Given the larger number of Celtic supporters travelling to matches at away stadia, supporters have raised concerns over the impact on individuals charged under the legislation, where those individuals have required to travel large distances during the court process.

These concerns were raised again following the publication of the Appeal Court in the case of William Donnelly and Martin Walsh ([2015] HCJAC 35), in which it is stated “The main, but not exclusive, focus is on the behaviour of certain Celtic and Rangers fans with their long standing attachment to opposing factions involved in the politics of Ireland, and Ulster in particular.” (paragraph [1]) and “There is no blanket ban on signing sectarian songs and the appellants are at liberty to indulge in their desire to do so at many alternative venues. There is, however, a prohibition on doing so at football matches for the reasons outlined in the policy memorandum to the Bill (supra).” (paragraph [14]).

In some cases, supporters indicated that they were no longer willing to attend matches as a result of their concerns around the application and enforcement of the legislation by Police Scotland.

The Club is also concerned that the damage to the relationship between supporters and Police Scotland may have an impact on the safety environment at Celtic Park and away stadia, if supporters have lost respect for Police. There is also a perception among supporters that certain songs and chants are more prevalent now among a section of the support (particularly at away matches) than before the legislation came into force. To this extent, it may be considered that the legislation was counterproductive.

**Impact on the relationship between supporters and the Club.**

The experience of the Club in the period since the legislation came into force is that the Club’s relationship with a number of its supporters has been adversely affected.
As noted above, in some cases supporters have indicated that they were no longer willing to attend football matches. The impact of the legislation on the relationship between the Club’s supporters and Police Scotland has also impacted on the relationship between supporters and the Club, in the following ways:

- The Club has become a conduit for information between Police Scotland and supporters’ groups. It is not considered that this is sustainable. The Club is seen by some to be involved in the process of enforcing the legislation. It is for Police Scotland and the Courts to enforce the legislation.
- The Club’s Supporter Liaison Officer has given evidence in a court case brought under the Act.
- Concerns have been raised with the Club by supporters regarding information being shared between the Club and Police Scotland in breach of data protection legislation. The Club confirmed its position that any information shared was in accordance with the Club’s legal obligations, but the perception was damaging for the Club.
- The relationship between the Club’s safety stewards and some supporters came under pressure as a result of the some supporters’ concerns regarding the conduct of Police Scotland (see above). Significant steps were taken by the Club to seek to improve the relationship, but supporters’ concerns remain.

**Summary on the section 1 offence.**

The Club remains supportive of the Scottish Government’s commitment to addressing unacceptable behaviour. Given the experience to date, however, the Club retains significant concerns in relation to the potential for discrimination against football supporters and for confusion in applying and enforcing the section 1 offence.

From feedback received by the Club from the Club’s supporters, there has been significant impact on the relationship between some of the Club’s supporters and Police Scotland. Further, the Club is concerned that the relationship between the Club and some of its supporters has been affected.

Given the potential for discrimination against football supporters and the confusion in applying and enforcing the section 1 offence, the Club agrees that sections 1 to 5 of the Act should be repealed.

**Threatening communications (the section 6 offence)**

The Club remains of the view, expressed in its submission to the Justice Committee in 2011, that this section of the Act, which accepts that communications may be considered as threatening whether in a football context or not (in contrast to the rest of the Act), is to be welcomed to the extent that the offences are not adequately provided for in existing law. The Club is not in a position to express a view as to whether and to what extent such provisions are adequately provided for in existing law.

Celtic Football Club
18 August 2017