Justice Committee

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

Written submission from Helen Lynch

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 The Act needs to be repealed as it is a very discriminatory piece of legislation that targets one particular group of Scottish citizens.

The Act also makes certain acts illegal for football fans in the context of a regulated football match with the same actions not necessarily considered illegal for other groups/citizens in other situations. For example, attending a rugby match/concert etc.

The Act therefore specifically works in a manner to more effectively criminalise one group of the Scottish citizens.

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. There are other pieces of legislation to deal with behaviour related to football which leads to public disorder. This is the same legislation available to prosecute offensive/unacceptable/illega behaviour related to other activities (e.g attending a rugby match or concert) which might lead to public disorder. This includes legislation such as common law Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003 and Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. There is therefore sufficient existing legislation to deal with behaviour that might lead to public disorder whether this be at a football match, rugby match or concert etc.

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?

It is wrong, discriminatory and unjust to have legislation which targets one group of citizens attending a leisure activity. Other groups of people with different interests are not targeted in this way. There is no Offensive Behaviour at Rugby Act or Offensive Behaviour when attending a Concert Act. This is because there is adequate legislation to deal with unacceptable/illega behaviour when involved in
such activities just as there is for people spending their leisure time attending football matches.

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 charges are low in numbers and section 6 is not being widely used by justice system practitioners. Other legislation is in place and used regularly. For example, 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?

As soon as the Bill is passed there should be no further convictions and all cases not concluded should be dropped. I also believe that, as the Offensive behaviour at Football Act is a flawed and very discriminatory piece of legislation, previous convictions should be quashed.

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

I do not believe it has had any positive impact in relation to assisting in tackling sectarianism. Sectarianism is a society wide issue and scapegoating one group of citizens as a means of tackling this issue undermines and detracts from the broad educational approach required to encourage a change of attitude in our society as a whole.

Helen Lynch
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