Justice Committee

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

Written submission from Calum Gordon

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 law is too open to interpretation. Offensiveness, should not be a crime, nor should it be a police officer’s duty to deem what is and isn’t offensive. They are there to enforce laws, not interpret them.

It has led to unfair and unjust harassment of football supporters, many of whom have had their lives disrupted, jobs put at risk and been caused untold stress as a result of a cumbersome and knee-jerk piece of legislation.

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, between Breach of the Peace, Section 74 of the Criminal Justice (Scotland) Act 2003, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010, police have ample power in arresting and subsequently prosecuting those who espouse bigotry, racism, homophobia or any other unlawful intolerance at the football or online. It seems perverse, with this existing legislation, that Scotland – a modern, forward-thinking country – would require such a targeted, politicised and ultimately draconian law, when there was sufficient legislation already in place.

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?

Again, it seems like a targeted law which demonises (largely) working-class football supporters. I fail to see why it should be a crime if a certain song is sung in a football stadium, but not if it is done so at a rugby match.

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?
The usage of section 6 has been dramatically low since this legislation was enacted. Meanwhile the Communications Act (2003) gives ample scope for prosecution for any threats made online. This piece of legislation seems to have been given much greater consideration, is more nuanced, was deliberated upon more thoroughly due to its less-politicised nature and therefore seems more beneficial.

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 am of the view that the Act should cease with immediate effect. All on-going cases should be dropped, and serious consideration should be given to quashing any previous convictions, which have come about from aggressive political policing in many cases.

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

Absolutely none whatsoever. It is a misnomer to suggest that football is the cause of sectarianism in Scottish society, when it has deep historical roots. Furthermore, while sectarian Orange Walks continue to blight the city of Glasgow each year, it seems perverse that football should be the focus.

Sectarianism is wrong, a stain on our society and must be tackled. Sadly, it won’t be done through poor legislation, such as this Act.

Calum Gordon
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