Justice Committee

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

Written submission from Ben Gilhooley

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 as I believe that the act inconsistent and unclear.

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 is existing provisions of criminal law which is sufficient to prosecute offensive behaviour at football games e.g. 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.

There is no gap in the criminal law, the only gap that has been created through the process of this act is the gap between supporters and police.

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?

I think that if the behaviour isn’t criminalised in another setting, then how can the criminalisation occur just because they are attending a football game. It seems politically incorrect.

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 barely been used and the police and prosecutors regularly use 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?

With immediate effect and that previous convictions should be quashed.

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

Personally believe that the 2012 Act was rushed through parliament without any care or thought behind it. The act has fuelled police to be more heavy handed at football games which has inevitably created a gap in the relationship between supporters and the police.

Seeing the heavy police presence at football games is quite frankly pointless, there is much more that can be done to tackle sectarian behaviour within the game of football. The act was almost thrown into the deep end without any thought, when in actual fact the way that this issue has to be tackled is from the moment a person engages with the game of football. Seminars and lessons on the issue should be brought into all schools, colleges and football clubs in Scotland.

Ben Gilhooley
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