Justice Committee

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

Written submission from Brenda M Binnie

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 I agree with the proposal in the Bill to repeal the 2012 Act. The legislation criminalises anyone who attends a football game. Football fans should not be treated any differently than other sports fans.

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. The existing provisions of criminal law are sufficient to deal with offensive behaviour relating to football. I do not believe that there would be a gap in the criminal law. I believe that Breach of the Peace, section 74 of the Criminal Justice (Scotland) Act 2003 would sufficiently cover unacceptable behaviour relating to football.

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 do not think that there should be a separate law relating to football. This alienates football fans from the rest of society. Football fans should be treated no differently to other sports fans.

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?

I know that Section 6 has hardly been used in the whole period since it was enacted and that police and prosecutors regularly use other legislation eg. 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?

Not only should the Act be ceased to be used with immediate effect, I would urge
that people with previous convictions should be quashed. This law ONLY applies to
football fans and should never have been enacted in the first place in 2012. This law
has ruined lives and has wrongly criminalised young supporters for minor acts e.g.
entering a field of play at the end of a football match to celebrate a monumental win,
but then being wrongly accused of acting aggressively when the person was joyous
and celebrating along with other thousands of supporters.

If this law continues, why then isn’t there ‘The Offensive Behaviour at Concerts and
Threatening Communications Act’ given previous trouble at T in the Park, concerts at

My son was arrested and charged under this unfair act in June 2016.

This is my son’s story -

“On 21st May 2016, I attended Hampden National Football Stadium in Glasgow,
Scotland. My football team - Hibernian were in the Scottish Cup Final playing against
Rangers Football Club. This was one of the largest events in my club’s history as
Hibernian had not won the Scottish Cup for 114 years. The stadium was full to
capacity - over 52,000 supporters from both sides.

The score was 2 - 2 as it went into extra time. Hibernian scored with a minute to the
full time whistle. Hibernian were not expected to win this game.

Approximately 4 - 5 thousand Hibernian fans spilled on to the pitch. I was one of
them. I was crying with happiness as I have supported Hibernian all of my life as
have my parents, Grandparents and beyond. I was keen to congratulate the football
players. I ran past the Rangers goal keeper and gestured towards him with my two
fingers. At no point did I make contact with him or stop to speak to him. I was trying
to get through the crowds of supporters to shake hands with the Hibernian players.
At the same time I ran past the Rangers goalie, another supporter ran behind me
and pushed the Rangers goalie. I was unaware of this at the time.

There were very few police officers and security officers to control the crowds.
Eventually mounted police were brought in to the stadium to encourage the jubilant
supporters to return to their seats.

I was not aware of any trouble during the time I was on the pitch.

The following morning I woke to realise that I had been wrongly identified on social
media as the man who had pushed the Rangers goal keeper.

Unfortunately I am recognisable as I have ginger hair as did the man who had made
contact with the goal keeper.
I was inundated with hundreds of foul, abusive and life threatening messages on Facebook and Twitter. I was extremely scared as my address was also shared via social media. My father contacted the police and we were then under police protection, being visited twice per shift and having access to immediate response from the police if required. Three days after the cup final, the Glasgow CID arrived at my home and arrested me under the Offensive Behaviour at Football and Threatening Communications Act 2012. I was charged with entering the field of play (along with thousands of other supporters) and acting in a threatening manner. I was detained overnight in a cell and not allowed to phone my parents. The following day I was taken to Glasgow Sheriff Court and allocated a solicitor by the court as I did not know of any lawyers. I had never been in a police station or Court of Law before and was extremely naive and scared.

I was very upset and just told the Solicitor that I just wanted to go home. He advised me to plead guilty if I wanted to get home. My family were very unhappy that I was given this advice as I later found out that I was wrongly advised.

On 23rd June 2016, I attended Glasgow Sheriff Court for the case to be heard. I was found guilty of acting in an offensive way which could insight a reaction (by gesturing with my two fingers).

The Sheriff disposed of the case as follows:

1. A community payback order with conditions that I complete 240 hours of unpaid work within 6 months.

2. That for a period of 2 months I would be required to remain within my home address from 8pm - 6am every night.

3. That for a period of 2 years I will not be allowed to enter any football ground for any Scottish, English, Welsh or Conference football league match, any International match or any match when a club from any of the above leagues is playing out with the UK.

I was also charged a second time from the same event on the same day under the same legislation. I attended Glasgow Sheriff Court on 10th February 2017 on a charged likely to incite public disorder at a ground leaving/entering regulated football match.

The case was admonished.”

Because of this, my son lost his job coaching squash to pupils at a large independent school in Edinburgh. He was just finishing an HND in sports coaching but because of the stress of the situation, he was unable to complete his last assignment therefore lost his Napier University place to join the third year of a sports degree course. He was also an SFA intern. The SFA denied working with my son due to the high profile and media attention surrounding his case. He has lost his reputation and integrity and with that, his confidence. My son is now directionless as he now feels unable to fulfil his ambition of working in sport. He has a criminal conviction but has still been able to keep his full Disclosure Scotland after petitioning for this right.
His life has been turned upside down, just for being exuberant in celebrating with fellow supporters.

I strongly urge that this legislation is terminated and that my son has this criminal conviction quashed.

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

Sectarianism starts way before the football game. It is a way of life for many people. Sectarianism can only be tackled at the roots. This must be dealt with in schools, youth groups etc. This is the only way to change attitudes and behaviours.

I regularly hear sectarian singing on the TV whilst watching football games. Nothing is done to stop this at the time. Police and security turn a blind eye to the abusive songs that are sung so the fans continue to sing them.

Brenda Binnie
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