Justice Committee

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

Written submission from Kevin McAuley

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 legislation is discriminatory against a specific demographic of Scottish society, namely football supporters. It is simply wrong that something not illegal in any other area or situation is deemed illegal in the context of any aspect of a football match in Scotland.

2. Did you support the original legislation?

No.

Existing legislation exists (and did exist when it was introduced) to deal with the “sectarian” problem that the Scottish Government stated that this legislation was introduced to address.

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 various other possible pieces of legislation eg 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 which are suitable and do not focus purely on football supporters.

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?

Yes.

The legislation is discriminatory against football supporters, where something not illegal in any other area or situation is deemed illegal in the context of any aspect of a football match in Scotland. This situation is simply wrong and does nothing to address the factors which this knee-jerk bill was introduced to address.

As detailed above there is other legislation available to address issues and which do not focus attention exclusively on football 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?

Yes.

Other legislation such as the Communications Act, 2003 is regularly used by police and prosecutors, which would suggest they do not see the need to utilise Section 6.

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?

The Bill should be withdrawn with immediate effect, with all pending cases dropped and previous convictions quashed. This draconian piece of legislation should never have been introduced, therefore it should not be ruining people’s lives who have been subjected to its horrendous implementation.

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

This act has had no positive effect on addressing or tackling sectarianism in Scotland. This is a societal problem and not a football problem, consequently the Scottish Government should be addressing this issue through a number of other initiatives such as continued education and use of existing legislation which does not focus or prejudice solely on football fans.

Kevin McAuley
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