Justice Committee

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

Written submission from Michael McGurk

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. It is a draconian legislation that criminalises football fans for “crimes” which are not crimes if committed outside the football stadium or travelling to the match. It completely discriminates against football fans and it is a huge waste of tax-payers money which would be better spent tackling real crime in Scotland.

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?

The legislation is already in place to deal with this. For example, sectarian abuse/singing can easily be dealt with under hate crime legislation or breach of the peace.

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. How can a “crime” only be a crime in certain circumstances? It is either a crime or it isn’t. Targeting football fans for something which is perfectly legal in the pub or the street is discriminatory and I’m sure some affected could have a case for infringement on their human rights.

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 existing provisions are sufficient. There are numerous laws already in place. What this boils down to is the words of Christine Grahame MSP during the debate with Prof. Tom Devine, it was always about “evening things up”¹.

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?

Yes. There should be no further convictions & police should cease issuing fixed penalty notices.

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

I don’t believe it has assisted at all. The laws to deal with sectarianism were already well established. This was an ill-thought out law, brought in on the back of a so-called “shame game” when, in fact, there was very little issues in the stands or on the pitch. It was a vote winner for the SNP and a poplar campaign which targeted football supporters instead of looking at the real issue in Scotland which is still the same – members from the Irish/Catholic community are far more likely to suffer an attack despite being in a minority of the population. This is a problem throughout Scottish society and needs addressed through education – not targeting football supporters.

Michael McGurk
10 August 2017