

Dear Sirs,

I understand that a significant amount of evidence was presented to the Committee recently regarding the Offensive Behaviour at Football and Threatening Communications Act 2012.

I have previously highlighted my concerns about this Act and the manner in which it has and continues to be implemented by The Crown and Procurator Fiscal Service. I have significant experience as a solicitor in the representation of football fans prosecuted under this Act. I have defended numerous fans prosecuted under the Act. Presently, I have nearly 50 clients all being prosecuted under this Act for different allegations. The trials are scheduled to commence between October and February.

I have represented fans that support Celtic, Rangers, Motherwell, Hamilton, St Mirren, Hibernian, Patrick Thistle and Scotland.

There has always been the presumption that the Depute conducting a trial, at whatever level, had discretion to decide what to do with a case. This may still be the case. I would, however, highlight the following.

Until the recent change of Lord Advocate all cases that I defended were clearly marked that the result of the case had to be submitted with a report direct to the former Lord Advocate. I recall in one case that a depute in Glasgow required to make a motion to adjourn due to lack of Crown witnesses at a trial diet. This depute was experienced but required to take the instructions of a senior depute to confirm that he could move to adjourn. This a ludicrous position given he could only make a motion to adjourn. The depute advised the court of this position and informed the presiding sheriff that it was "more than his job was worth", than not to take instructions.

To date, with the exception of one current matter, all trials that I have defended have been prosecuted at summary level. The matter at solemn level is due to commence within a matter of weeks. In that case one of the witnesses the crown seek to lead in evidence has provided three contrasting statements. I was advised by a senior depute that the witness lacks credibility but as it is a football matter it requires to "be a trial."

It is, in my personal and respectful opinion, concerning that the discretion previously given to deputes in court may not be as generous as it once was.

I hope this is of assistance.

Should you require any further information please do not hesitate to contact me.

Yours faithfully,

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