

Scottish Women's Convention Response:

The Scottish Parliament Justice Committee's Call for Evidence on the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill

August 2017

The Consultation

The Scottish Parliament's Justice Committee is seeking views related to the repeal of the current Offensive Behaviour at Football and Threatening Communications Act, 2012.

The Bill was introduced in the Scottish Parliament on 21 June 2017 by James Kelly, MSP. The purpose is to repeal in its entirety the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. At present, the Act makes provision for two criminal offences, one involving "offensive behaviour at regulated football matches" (Section 1), and one involving "threatening communications" (Section 6). Arguments for removal of the Act include its perceived failure to tackle sectarianism and the presence of sufficient legislation in place to cover offensive behaviour.

Under Section 1, the police are given powers to deal with offensive or threatening behaviour liable to incite public disorder at football matches, namely singing, chanting and display of offensive banners, particularly in relation to sectarianism or racism. It includes terms that the offence can be committed at a match, journeying to or leaving the ground or at a venue where the match is being broadcast.

Under Section 6, powers are provided to tackle threatening communications not previously covered in relation to threats made with the intent of inciting religious hatred. Unlike the rest of the United Kingdom, Scotland did not have a specific offence for inciting religious hatred without a racial element which is also covered in this section. Communications under this section also include social media.

The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to the impact of offensive behaviour, it also lays out vital arguments in a gendered context as to why this Bill should remain.

Question 1:

Do you agree with the proposal in the Bill to repeal the 2012 Act? What are your reasons for coming to this view?

No. The SWC has consulted with women throughout Scotland who have spoken about the impact that offensive behaviour at football has had on their lives. At present, the 2012 Act fills a gap in the legislative agenda which is well meaning in its scope to protect communities throughout the country.

One of the issues highlighted by the member in charge of the Bill is its perceived failure to tackle sectarianism.

Football is gradually becoming more inclusive of women, both in participating and attending events. This is an extremely advantageous move and the large majority of male football fans are welcoming towards women in what was once seen as a strictly masculine event. However, the sectarian abuse that can be spouted specifically at women prior to and after football games is extremely discriminatory and should be viewed as reprehensible.

Regardless of religious identity, many women have discussed not only the offence they take from the likes of songs and shouting at football matches but also the alarm and fear that they experience as a direct result of this. Legislation should be clearly outlined to show that the government will not condone this behaviour and the fear it inspires within women.

Women have reported being groped, physically assaulted or even threatened with rape all because they support a particular team. This is unacceptable violence against women, Police, football clubs and football fans should condone such behaviour and support women who are victims.

Whilst the SWC is in agreement over keeping the Bill, strong amendments and clearer guidelines must be made to the legislation. The insertion of the word "sectarianism" clearly within the Bill's guidance and a strong definition of this for police and the community at large will enhance the remit of the Bill. This will provide greater help for the police with powers to catch perpetrators of this form of behaviour.

Question 2:

Did you support the original legislation?

Yes. The SWC gives full support to any legislation that will bolster protection of women within Scotland. Prior to the 2012 Act, football-specific behaviour was not captured within legislation and the fear and alarm that can be caused as a result of this.

More clarity around what the legislation actually means for the general public needs to be highlighted. It should be communicated that the purpose of the Act is not to deliberately target football fans, but to illustrate that Scotland will not tolerate any form of offensive behaviour. Advertising campaigns and social media should be implemented and educational resources made available in schools highlighting sectarian prejudice.

Football clubs should use their influence with supporters to weed out sectarianism, it is not the sole responsibility of the Scottish Government.

Question 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?

No. Arguments for the use of breach of the peace do not send a strong enough message of condemnation in regards to the offensive behaviour that can occur at football events. The display of offensive flags, singing of sectarian songs and abusive conduct can cause significant distress, particularly to women and young children.

Unfortunately, Scotland is infamous throughout the world due to the offensive and sectarian behaviour within our footballing culture. This not only acts as an influencer to young football fans but also can turn many people away from the great aspects of Scottish football that the majority of fans seek to highlight.

Women are often the victims of sectarianism and, as a result, often avoid public spaces on match day due to fear. This particular type of behaviour is often linked to violence against women and can deepen the inequality between the sexes.

Fears about personal safety when travelling to and from an event have been brought up by numerous women, especially after attending a football match and being *“scared to walk through the city centre wearing a scarf or a strip in case of an attack”*.

For many, the issue of *“division”* and *“hate”* is extremely common when discussing Scottish football. This goes further than just match day and can extend into communities and families. Women have spoken to the SWC about the alarm they feel that in the 21st century so much of football within Scotland is still based on ignorance and religious conflicts that occurred centuries ago.

“Sectarianism in the extreme isn't about the love of a certain team, it's about the hatred of the other team.”

Context, tone and associations of sectarian language are also a contributing factor. Terminology associated with racism, homophobia etc, which was common as little as twenty years ago, is simply not used any more. It is grossly offensive and inappropriate and rightfully has no place in society. In contrast, words like ‘hun’ or ‘tim’ continue to be *“bandied about”*, often without people knowing the real meaning and having no understanding of just how offensive these terms really are.

“Why is it that it's ok to say sectarian things? Nobody should be frightened to say ‘don't speak about people in those terms.’”

In addition, the SWC calls on the government to implement new strategies for the use of football banning orders (FBO's). Given the insights detailed here into the abuse specifically directed at women, FBO's should also include gendered descriptions within their issuance. These can ban those indicted from not only stadiums but also the likes of railway stations and other public places.

Question 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?

Travelling to and from football matches should be kept within the Bill. It is at these times that women are arguably in the most danger. Men may proceed to carry out offensive behaviour in the knowledge that they are safe from prosecution.

Women have commented on fear in other settings related to football such as socialising in a pub on game day, and have faced threats in these contexts of a sectarian nature. This form of abuse tends to be highly sexualised and threatening when aimed at women. It is not only highly offensive but can lead directly to gendered abuse including intimidation and rape threats.

One of the worst aspects of this is the misogynistic and drunken mentality that is stirred up and should have no place within Scottish society. Women have routinely spoken of abusive language directly aimed at them. Sectarianism should be criminalised at all times, regardless of instance or location.

"I don't feel safe going into Glasgow, especially travelling on a train or a bus, on Old Firm days or if I know there's going to be an Orange Walk or a Republican March on. I don't want my kids living in a country where sectarianism is still part of the fabric of society."

"How can behaviour aimed at you be seen as 'freedom of speech' in one place and 'offensive' in another? It's disgusting. These people aren't real fans and they're not really religious. Everybody knows the main point of it is hatred."

At present, many women believe there is a strong sense of denial and finger pointing on the sectarianism issue that needs to be addressed. It can only be tackled if football clubs play a much bigger role. Not only does this reach out to a wider community, it can be seen as much more influential if coming from the clubs.

Concerns have also been raised as to the levels of policing that events require, taking vital resources away from communities. Having to provide extra cover means that women are not only under threat from offensive behaviour, but also from unrelated crime.

Question 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 makes provisions for threatening communications through the use of social media. With online activity becoming more and more visible, social media is responsible for playing a large part in perpetuating sectarianism. It is easier to use due to the anonymity element of it. This section must be retained in order to criminalise the ever increasing use of online abuse.

Question 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?

No. The Bill should remain in place but with suitable clarifications and amendments made.

Question 7:

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

Whilst supportive of the Act's intentions to eliminate sectarianism in a footballing context, further clarification and police training is needed around this legislation. Furthermore, given the nature of this particular consultation response to highlight women as specific victims of offensive behaviour in regards to football, there is scope within the current Act for making it more gender-specific. This should include a heightened public awareness of sectarian related crimes which are conducive merely for the victim being a woman.

Legislation is essential in order to cease normalising, or in some cases even glamorising, these offences which are detrimental to communities.

Over the past few years, sectarianism has begun to be perceived differently within society. No longer is there such a "class" issue surrounding this behaviour. It does not occur in the typical setting of more deprived areas and is now largely felt throughout society at all levels within Scotland.

That the legislation only covers footballing events is felt to be detrimental and this issue has been talked about at SWC events. The 2014 Scottish Referendum and the most recent General Election campaign have acted as catalysts for an exponential increase in offensive behaviour relating to sectarianism and football even when there is no event on.

Pupils from Catholic schools have been subject to threats, harassment and, for example, attacks on school buses by students from non-denominational school, and vice-versa.

“You really have to watch what you say and how you act in certain circumstances. I’ve often taken my tie or my blazer off so others can’t identify which school I go to. That way they might only say something to me because I’m a girl and not because I’m a girl that goes to a certain school.”

“I found out about two years ago that the reason I wasn’t allowed in one of my best friends houses wasn’t because she wasn’t allowed to have friends in. It was because I’m a Catholic and her dad didn’t want me in the house.”

In order to tackle this problem, the SG must use its powers and resources to change the mindset of those still committed to this type of abusive behaviour.

Conclusion

The Scottish Women’s Convention welcomes the opportunity to respond to this consultation regarding the proposed repeal of the 2012 Act. Women’s safety needs to be considered if this Bill is repealed. Whilst the SWC notes that amendments and changes in implementation are needed within this legislation, any law which seeks to tackle offensive behaviour is a positive step.

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