

Justice Committee

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Written submission from the Scottish Police Federation

Thank you for the opportunity to comment on the above Bill. I have circulated the Bill and associated documents to members of the Scottish Police Federation's Joint Central Committee which is our national executive and asked them to comment. What follows is compiled from their views. As you know, on Tuesday 21 June 2011, the Scottish Police Federation's Chairman, Les Gray, gave oral evidence to the Justice Committee at very short notice. Our internal consultation exercise was ongoing at that time as Les explained and any changed view or emphasis is as a result of responses from our representatives being received by my office since that time.

The Scottish Police Federation's majority view is that the offences created by the Bill will be useful additions to Scots Law. Some of those who responded to our internal consultation felt that current common law and statute law (principally Breach of the Peace and Threats) could adequately deal with offences relative to the two main areas covered by the Bill. They also felt that stiffer sentences would be the best way of expressing society's disapproval and would provide a deterrent. Some of our representatives also argued that the Bill should have carried a statutory power of arrest rather than relying on common law powers of arrest.

A significant number of our respondents felt that the Bill was being rushed and that further guidance, even amendment, might be required in light of experience. Training police officers on new laws and procedures is always an issue with new law and in this case the complexities will require a significant training input at significant extra cost. Some of the definitions in the Bill will be open to interpretation by the police (and others) but guidance and court rulings will undoubtedly provide clarity as time progresses.

There is no doubt that if, as seems likely, dealing with these offences will become a higher priority than hitherto, it will mean that extra police resources will be required and this must be taken into account. The reasons for this are that in relation to the Offensive Behaviour at Football Matches, Scottish police forces have for some years been reducing numbers of officers inside stadia. Indeed since the introduction of all seated stadia and the Criminal Law (Consolidation) (Scotland) Act 1995, and greater television coverage of games, by far the majority of football related policing takes place outside stadia. If it is decided to give this new offence a high priority then it seems likely we will have to reverse that trend and increase the numbers of officers within football grounds.

The Federation fully supports the recent creation of Anti-Sectarian and Football Violence police units but if these new offences are enacted then it is likely that greater

numbers of complaints from the public will be made about offences and workload will increase for the police in general and not just for officers working in these specialist areas. Whether in relation to increased use of Fixed Penalty Notices or in cases where the accused is arrested or detained, there will be increased costs for the police.

In relation to Threatening Communications by computer or whatever, we will either have to divert officers and staff working on computer crime from what they are doing meantime, or increase the numbers of people working in that area of crime for the reasons explained at the end of the paragraph above.

The Scottish Police Federation believes the costs for the police will not be found within existing resources and that the estimates in the Financial Memorandum relating to the police are far too low. It acknowledges how difficult it can be to accurately forecast training and operational costs and would fully support an examination of actual costs in light of experience.

The Scottish Police Federation's view is that everyone has to be realistic about what the police can achieve. If we wanted to prosecute every speeding motorist we would need a presence at every road junction but we all know that is not going to happen. It is exactly the same with this new legislation. The Scottish Police Federation has often said, give us the resources and we'll do the job. That applies in this instance too. In addition, with the support of the courts in applying deterrent sentences, clubs in treating offending fans severely and education authorities in getting the anti-sectarian message embedded in learning programmes the Scottish Police Federation believes we can have a positive affect on this in Scotland.

The following comments are in line with the Bill.

Section 1.

In relation to Section 1, at first sight, it may be considered that the circumstances described as constituting an offence of 'Offensive behaviour at regulated football matches' could equally constitute a Breach of the Peace under common law. However the majority of our representatives believe that recent court rulings on Breach of the Peace make it desirable in this instance to be specific and to have consideration for Article 7(1) of the European Convention on Human Rights which requires that offences are clearly defined in law.

Section 2.

In relation to Section 2, we have no comments on the definitions of regulated football match or the meaning of behaviour in this context.

Section 3.

We have no specific comments on Section 3 of the Bill on fixed penalties.

Section 4.

We have no specific comments on Section 4 of the Bill on interpretations.

Section 5.

The majority of the representatives of the Scottish Police Federation believes the new offence of threatening communications is a useful addition to Scots Law. Again, it might be argued that the conduct described could constitute a Breach of the Peace or the Scots common law crime of Threats, but again, it is desirable for all concerned to be specific and follow the requirements of Article 7 of the ECHR and provide a clear definition.

Section 6.

We have no specific comments on Section 6 of the Bill on interpretations.

Section 7.

We have no specific comments on Section 7 of the Bill on offences outside Scotland.

Calum Steele
General Secretary
23 June 2011