

For the Attention of the Justice Committee

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



Introduction

Victim Support Scotland (VSS) is the largest charity supporting people affected by crime across Scotland through the provision of practical help, emotional support and essential information.

We welcome the opportunity to provide evidence to the Justice Committee in relation to the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill.

Did you support the original legislation?

1. Yes.

VSS welcomed the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill. We viewed this as an important step in dealing with the issues of threatening communication and inciting religious hatred.

2. However, as we stated at the time, legislation alone is not sufficient at addressing the root causes of hate related offences.

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

3. No.

VSS is opposed to the repeal of the 2012 Act unless there is a viable alternative to support victims of threatening communication and religious prejudice. However, we agree that laws should be rational and enforceable.

4. In arriving at this view, we took cognisance of the most recent COPFS Statistics in this area - noted below:

The number of religiously aggravated charges reported, at 673, is 14% higher than in 2015-16 and is at the highest level since 2012-13.

Including charges which are now reported under the Offensive Behaviour at Football legislation, there were 719 religious related charges - which is a rise of 12% from 2015-16.

There were 377 charges reported in 2016-17 under **S.1** of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. This is the highest number of charges reported since the legislation came into force.

There were 673 charges with a religious aggravation reported in 2016-17, 14% more than in 2015-16. This is the highest number of charges reported over the last four years, but is 2% lower than the number (689) reported in 2012-13.

The figures for 2012-13 onwards cannot be directly compared with the figures for earlier years, because some charges that would previously have been reported with a religious aggravation may now be reported under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

Research by the Scottish Government provides an estimate of how many such additional religious charges there were in each year. For 2016-17 the estimate is 46 additional charges, so including charges under both pieces of legislation implies a total of 719 religiously aggravated charges. This is 12% more than in 2015-16 and the highest number since 2012-13.

In 2016-17, court proceedings were commenced in respect of 84% of charges with a religious aggravation. In total, 93% of charges reported in 2016-17 led to court proceedings (including those not separately prosecuted, but which may have been incorporated into other charges for the same accused). No action was taken in respect of 2% of charges.

In 2016-17, 6 charges were reported under **S.6** of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. The number of charges reported under this legislation remains very small, and has never exceeded 20 in any single year. In 2016-17, court proceedings were commenced in respect of all 6 charges.

5. Whilst the number is small, VSS believes each victim in these cases were entitled to legal redress, therefore unless there is a viable alternative in Scots Law, the 2012 Act should remain in place.

6. We believe repeal of **S.6** would leave an unacceptable gap in Scottish legislative protection for victims of religious prejudice. Unlike England, Wales, Northern Ireland, and the Republic of Ireland, there is no alternative specific offence in Scots Law which criminalises threats made with the intention to incite religious hatred.
7. However, the on-going review of Hate Crime legislation in Scotland might allow the 2012 Act to be considered in the context of all hate crime legislation, which will help ensure that the overall legal coverage is appropriate and captured without compromising civil liberties.
8. The definition of “sectarianism” and also whether the Bill is illiberal or not are issues for law makers. The primary concern for VSS is the effect threatening or religiously aggravated communication and prejudice has on victims.
9. It is crucially important that victims in these circumstances have appropriate legal redress available to them.
10. As such VSS supports the retention of the 2012 Act.

ENDS