

## Crib Sheet for the Public Consultation Survey

### Repeal of the Offensive Behaviour and Threatening Communications (Scotland) Act 2012

**Please Note: only Question 1 of the survey is compulsory (see picture below) but you must keep hitting 'Next' until you get to the final page and press 'Submit' otherwise your response will not be counted.**

The Scottish Parliament  
Pàrlamaid na h-Alba

The cost of this survey has been met from parliamentary resources. The personal data provided in this survey is to inform my parliamentary work and will be shared with the Parliament's Non-Government Bills Unit but will not be shared with third parties including campaign or political organisations.

James Kelly MSP  
Member of the Scottish Parliament for Glasgow

**Proposed Football Act (Repeal) (Scotland) Bill**  
**6. Offensive behaviour at football (the section 1 offence)**

Please note that you must complete the survey in order for your response to be accepted. Whilst you have the option to skip particular questions, you must continue to the end of the survey to have your response fully recorded.

1. Which of the following best expresses your view of the proposal to repeal sections 1 to 5 of the 2012 Act? Please explain the reasons for your response. \*

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Comments:

**Personal Details – answer as appropriate. Privacy issues are addressed in the consultation document but no contact details will be made public.**

**We are indicating our preferred response at each stage by the use of a red highlight**

1 Are you responding as:

- (i) an individual – in which case go to Q2A
- (ii) on behalf of an organisation? – in which case go to Q2B

2A. Which of the following best describes you?

- (i) Politician (MSP/MP/MEP/Councillor)
- (ii) Professional with experience in a relevant subject (e.g. lawyer, medical profession)
- (iii) Academic with expertise in a relevant subject
- (iv) Member of the public

2B. Please select the category which best describes your organisation:

- (i) Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)
- (ii) Commercial organisation (company, business)
- (iii) Representative organisation (trade union, professional association)
- (iv) Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
- (v) Other (e.g. club, local group, group of individuals, etc.)

3. Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

- (i) I am content for this response to be attributed to me or my organisation
- (ii) I would like this response to be anonymous (the response may be published, but no name)
- (iii) I would like this response to be confidential (no part of the response to be published)

Name/Organisation

4. Please provide details of a way in which we can contact you if there are queries regarding your response. (Email is preferred but you can also provide a postal address or phone number. We will not publish these details.)

## SECTION 2 - YOUR VIEWS ON THE PROPOSAL

Offensive behaviour at football (the section 1 offence)

All references to the proposal refer to the proposal to repeal the Offensive Behaviour Act

1. Which of the following best expresses your view of the proposal to repeal sections 1 to 5 of the 2012 Act? This relates to the 'Offensive Behaviour at Football' part of the Act

Fully supportive

Partially supportive

Neutral (neither support nor oppose)

Partially opposed

Fully opposed

Unsure

Please explain the reasons for your response.

We would encourage you to fill this in as far as you can but it is not compulsory. You might include things like:

- It is unnecessary – there was and is already legislation

- It is unfair – targets football fans while fans of other sports or other citizens would not be charged for doing the same things
- It is unworkable – Sheriffs have made it clear that it is badly drafted; there is a very low conviction rate – lower than the legislation it was meant to improve on.
- It is discriminatory – it targets young, working-class men
- It is criminalising young people who would never be in court if it were not for the Act. It is affecting their studies and their employment opportunities.
- It is an attack on free speech – it allows individual police officers to decide what is, or is not, offensive.
- It has politicised the Crown Office Procurator Fiscal Service who now treat ‘football’ cases in an entirely different way to all other crimes. They prosecute them to the harshest extent under all circumstances.

2. In your view, what would be the advantages and disadvantages of repeal to:

(a) the police and justice system (b) football clubs (c) football supporters?

Again you can answer all, none or part of these sections. We would encourage all football supporters to say something under part (c). Response here might include things like:

Advantages:

The Act is creating a bad atmosphere at football so repealing it would make things better

The Act is criminalising young people who wouldn't otherwise be in trouble with the police

The Act is creating a bad relationship between fans and the police

The Act is diverting police and court resources away from serious crimes with genuine victims

The Act is costing a lot of public money

The Act is making fans feel discriminated against – it doesn't apply to other sports or activities

3. Leaving aside the issue of whether sections 1 to 5 of the 2012 Act should be repealed, what do you think needs to be done to reduce offensive behaviour at football matches (including, for example, by politicians, the police and the wider justice system, clubs, fans and other interested parties)?

Again you do not have to answer this question but feel free to do so. You may not feel that there are any real issues or you may feel that the pre-existing legislation was sufficient to deal with any real bad behaviour. You may not feel that ‘offensiveness’ should be a crime at all. You may have other suggestions for dealing with any serious concerns you may have.

Threatening communications (the section 6 offence)

This relates to the communications part of the Act which does not just relate to football. It has barely been used (11 convictions in the first 46 months of the Act) and most alleged crime involving online communications are dealt with by other legislation.

4. Which of the following best expresses your view of the proposal to repeal sections 6 to 9 of the 2012 Act?

Fully supportive

Partially supportive

Neutral (neither support nor oppose)

Partially opposed

Fully opposed

Unsure

Please explain the reasons for your response.

5. Leaving aside the issue of whether sections 6 to 9 of the 2012 Act should be repealed, what do you think is the most appropriate way of tackling threatening communications while upholding freedom of expression (for example, use of other legislation)?

Possible responses here would be the use of other legislation or simply no answer

Strict liability 6. Would you support measures to penalise football clubs for offensive behaviour by their fans? If so, should it be necessary to show that the club was at fault (for example, by failing to take reasonable steps to control fans' behaviour) - or should "strict liability" be applied?

FAC is not supporting strict liability so please answer as you wish or do not answer at all.

Transitional arrangements

7. What transitional arrangements do you think would need to be included in a Bill to repeal the 2012 Act? [Possible options are set out in the consultation paper at page 23].

This relates to those people whose cases are still not resolved at the time the Act is repealed or who are identified as having possibly breached the Act but not been charged prior to repeal eg from CCTV evidence long after the event. Our view on this is that all cases should fall and no further charges be brought.

Financial implications 8. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have?

Significant increase in cost

Some increase in cost

Broadly cost-neutral

Some reduction in cost

Significant reduction in cost

Unsure

Please provide any comments.

Our view is that there will be a clear saving of public money (spent by the police and courts) and also the costs of private citizens who have had to pay legal bills and take time off work in order to attend court and often are found Not Guilty under the Act. If you have been charged under the Act it would be very helpful for you to give some sense of the financial cost to you.

Equalities

9. What overall impact is the Bill likely to have on the following protected groups (under the Equality Act 2010): race, disability, gender (including transgender), age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity?

Positive

Slightly positive

Neutral (neither positive nor negative)

Slightly negative

Negative

Our view on this is that the Act has impacted very negatively on young men and that this is a discriminatory effect that will end if the Act is repealed. So our view is that the Bill to repeal the Act will have a positive effect on at least two protected groups. You may also feel that the Irish community has been impacted in terms of the sectarianisation of Irish songs/flags etc.

10. In what ways could any negative impact of the Bill on any of these protected groups be minimised or avoided?

We don't think there will be a negative impact on any protected group of abolishing the Offensive Behaviour Act – quite the opposite.

General 11. Have you any other comments to make on the proposed Bill or on the matters raised in the consultation document?

Answer as you wish or leave blank

12. Do you have any direct experience of the Act in practice that you would like to share?

If you have been charged under the Offensive Behaviour Act then please give some detail of how this has affected you if you feel able. You do not have to, of course.

If you feel that you have been affected by the way the Act has been implemented eg the way football games are policed then it would help if you indicate it here but you don't have to.

