

**CRIME AND JUSTICE**

# An Evaluation of Section 1 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

## Introduction

This research was commissioned by the Scottish Government to evaluate the implementation and impact of new powers introduced in Section 1 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. The research aimed to provide evidence as to the Act's impact on disorder and offensive behavior at football matches. It was conducted by the University of Stirling, ScotGen Social Research and The University of Glasgow.

The specific research objectives were as follows: 1) To assess the implementation of section 1 of the legislation and to identify any barriers that may be impeding its effectiveness 2) To evaluate whether the atmosphere and behaviour at and around football matches has improved since the introduction of the Act 3) To assess whether the Act has also resulted in a reduction in offending at and around football matches 4) To examine supporters' perception of the legislation, in terms of their understanding of its content and acceptance of its objectives.

## Methods

The methods included: a national survey of football fans (conducted in 2013 and repeated in 2014); interviews with key people involved in the implementation, namely, authorities and officials, supporters and supporters' group representatives; analyses of secondary data from official sources, and researchers' observations from events around matches.

## Implementation of the legislation and key factors facilitating or impeding its effectiveness

The Act was adopted quickly. This was partly because of the police and prosecution initiatives that had been set up before the enactment of section 1 of the Act, namely: the establishment of the Football Coordination Unit Scotland (FoCUS) and the establishment of Football Liaison Prosecutors.

FoCUS was well-regarded by the police who were interviewed in the evaluation, for helping local police divisions work through the operational and tactical implications of the legislation and for providing training and other forms of support.

Police interviewees also highly appreciated the work of Football Liaison Prosecutors who were located in the Crown Office and Procurator Fiscal Service (COPFS). They were seen as being a readily approachable point of contact within their regions, and were viewed as actively helping prepare and progress s. 1 cases.

Levels of awareness of the act were high among all supporters (83% had heard of it in the 2014 survey), but were highest among Celtic and Rangers supporters (94% and 92% respectively).

Sheriffs were divided on the Act, ranging from strongly in support to emphatically critical. Most often though they expressed a mixture of support and criticism for s. 1. Some were concerned about its clarity and the human rights implications. Some also felt that the quality of evidence in cases brought under section 1 was sometimes weaker than it could be, with one emphasising that he would appreciate expert witness evidence on the meaning of behaviours labelled as offensive.

Policing and stewarding was still considered to be very inconsistent at different grounds, with inexperienced police officers and stewards perceived either to be failing to act on offensive behaviours, or enforcing the legislation in a manner that was viewed as adversarial by fans.

Fans and police officers, who were involved in the evaluation, placed value on experience, and on known police officers and stewards who could build up a rapport with fans. Such individuals were considered more likely to be able to 'head off' offensive behaviour through proactive intervention and influence.

Tensions around the introduction of the Act however - and in particular the extent to which certain sections of fans felt over-policed, and subject to disproportionate levels of surveillance, searches and public-order style policing - was considered to have placed a strain on police, club and fan relationships at certain clubs. This was commonly remarked upon by both fans and police officers. For some experienced police officers a consequence of this strain was that it made it harder to exert a positive influence on fans, and in particular to get information from fan groups about more serious criminal behaviour, notably violence associated with risk groups.

A concern of some police officers was that the focus of police resource on in-stadia disorder and offensive behaviour, was at the expense of resources being available to appropriately monitor more violent risk groups. It was indeed notable within this research how groups of fans in stadia who were

associated with enthusiastic singing and displays (and potentially offensive behaviour), were now commonly referred to as 'risk groups'. This conflation of groups of fans associated with potentially offensive behaviour with those engaged in much more serious, violent offences, is problematic particularly if it implies that specialist police resources (such as surveillance and intelligence assets) should be diluted or diverted, or if it exposes fans who hitherto were not regarded as a 'problem' to less restrained policing strategies.

Whilst younger fans (in particular those under 20) constitute a higher proportion of people charged under s. 1 over time (constituting 46% of charges in 2013/14 – 95 charges, compared to 36% in 2012/13 – 96 charges), this is only a *proportionate* increase, and would appear to reflect a steep fall in the number of older fans being charged. Charges against older fans (aged 31 and above) fell from 71 in 2012-13 (26% of all charges) to 24 charges in 2013-14 (12% of all charges). This may be due to older fans complying with the legislation more quickly, though some fan-respondents' argued that it was because younger fans were an 'easy target' for enforcement.

The 'success' of the Act in terms of successful prosecutions, has faltered in the last year, with the published rate for s. 1 prosecutions dropping from 73% to 52%. Our analysis would suggest that this drop in convictions may not only be an issue for s. 1 offences, but also for other football-related charges such as breach of the peace.

There appear to be quite long delays in getting football-related charges through the criminal justice system. Again, this does not pertain exclusively to s. 1 charges. In our qualitative research the length of time taken to progress cases was perceived as a source of frustration and unfairness by some fans.

## **Changes in behaviour and atmosphere at matches since the introduction of the act**

The survey of football supporters showed some evidence of concern about what supporters see and hear at matches. For example, a slight majority of supporters in 2014 (55%) reported sometimes being offended by things other supporters shout, chant or sing at matches, although 50% also thought that "people go to football matches to let off steam and what they say should not be taken seriously".

The 2014 survey asked people about the things that they were offended by at football (not limited to behaviour that is included under the Act). These findings were broadly in line with the focus of the Act – religion, terrorism, and the glorification of death and injury.

The highest proportion of those surveyed (90%) found singing songs which glorify or celebrate the loss of life or serious injury offensive, while 82% said they found songs in support of terrorist organisations offensive, and 85% said

they found songs, chants and shouting about people's religious background or beliefs at football matches offensive.

In terms of actual experience of some of these behaviours at matches, 28% of supporters said they had heard negative reference to a person's religious background during at least one game in the 2013/14 season. This was higher than the proportion that had heard negative reference to a person's country of origin (19%), sexuality (19%), gender (10%) or skin colour (8%).

The reported prevalence of these verbal behaviours was broadly stable between the 2012/13 and 2013/14 seasons. There was an increase, however, in potentially offensive non-verbal behaviours in 2013/14 - especially letting off flares, throwing of missiles and the displaying of offensive banners.

Perhaps a better measure of long-term changes in behaviour were questions that asked fans to judge the prevalence of certain behaviours in relation to 'previous seasons.' With the sole exception of letting off flares, in both surveys, supporters were likely to view each specific type of behaviour as being *less common* than in previous seasons, as opposed to being more common.

Fans and stakeholders in the qualitative research mostly held similar views, with fans of Rangers and Celtic in particular noting a marked decline in certain types of offensive behaviour at home games.

## **Levels of offending at and around football matches and the impact of the act**

In its assessment of the Act, this evaluation has considered both the specific details of the legislation, i.e. the new s.1 offences, and the decisions that were made about implementation. Because these initiatives are so closely inter-related, judgements about the impact of the details of the legislation are impossible to disentangle from judgements about how s.1 is implemented.

It was acknowledged by fans and stakeholders alike that the Act was introduced in a way that gave it a high profile and saw it rapidly utilised. Whilst this generated hostility amongst some fans, it was also acknowledged by some fans and stakeholders that this had an immediate impact on behaviour.

Again, the fan survey questions asking fans to judge changes in prevalence of certain behaviours in relation to 'previous seasons' provided some tentative support for the impact of the Act on those behaviours that would clearly have been defined as criminal under s. 1. For example, 40% of supporters felt negative references to religious background were less common in the 2013/14 season than in previous seasons, while only 3% felt it was more common.

Over half (56%) of supporters felt that the level of negative references to religious background was about the same as in previous seasons.

Official data on football-related offending would seem to lend support to the perceived decrease in certain behaviours, indicating a marked decline in football-related charges, including a 24% reduction in s.1 charges in 2013-14, from 2012-13.

However, after a long period where football-related violence was perceived to be in decline, a number of football intelligence officers and senior police officers confirmed that there had been a notable upsurge in football-related violence by certain 'risk groups.' This activity was usually located well-away from actual football stadia.

In sum, although there may have been a reduction in the occurrence of some problematic behaviours at football in the last few years, it is impossible to determine whether some, or any of these reductions are attributable directly to the Act. Although some fans and police officers clearly felt that the Act had had an impact, other factors which may have contributed include the policing or prosecutorial resources which were put in place the year before the Act and the wider societal context which has witnessed sustained declines in violence and disorder more generally over a number of years.

### **Degree of understanding and acceptance of the objectives of the legislation among supporters**

The formal aims of the Act were to focus on a range of offensive behaviours, typically conceived as hate crime, such as offensiveness targeted on the basis of religion, sexuality, race, or professing support for terrorism. However, the Act was developed and introduced in a political and media environment where the legislation was primarily seen as a tool to address sectarian offensiveness. Fans and stakeholders in our qualitative research largely viewed the Act in this way.

Fans in the qualitative research provided slightly contradictory responses when characterising their understanding of the legislation. It was often claimed that what songs or behaviours fell under the remit of the legislation was ambiguous and uncertain. When probed however, it did appear that most respondents knew exactly what behaviours would potentially contravene the Act. This ambiguity primarily seemed to refer to disagreements about whether certain 'borderline' songs, words or gestures *should* fall under the Act.

Conversely, the primary value of the Act for police stakeholders was that it gave them added purpose and clarity when dealing with sectarian behaviour associated with football.

Fan perceptions that the act primarily focused on sectarianism were borne out in official statistics and stakeholder interviews, with a majority of s. 1 charges in both of the first two years of Act being made against supporters of Rangers or Celtic, and with over 50% of s. 1 sub-charges involving offensiveness associated with religion, support for terrorism or celebrating loss of life.

In the qualitative research, fans who did not follow Rangers or Celtic often described the Act in terms of being focussed on supporters of those two teams, and for many this seemed justifiable. However, it is to be noted that some of these same fans also described behaviours and 'banter' occurring elsewhere that would just as appropriately merit attention under the Act (e.g. racist and homophobic remarks and singing). The supporters' survey demonstrates that fans did sometimes encounter such offensiveness.

In the qualitative research, fans had different perspectives on the role of their clubs in relation to the legislation. Whilst some fans had received helpful communication from their clubs when the Act was introduced, others felt that their club was unclear or 'hedged' their advice on the implications of the Act. Conversely club officials felt unable to offer advice in some instances in the absence of legal precedent.

Whilst acknowledging that clubs had done good work in the past, in particular around sectarianism, some fans felt that clubs needed to take more responsibility for addressing these issues amongst their fan base.

Both fan and some stakeholder respondents in our qualitative research spoke of disquiet at the extent to which they perceived the Act to be targeted at younger fans. Some felt that younger fans were not as responsible when it came to the 'transmission' of offensive songs that had been sung, and taught to them, by older family members and friends. Criminalising younger fans in these instances was seen as disproportionate.

### How to access background or source data

The data collected for this social research publication:

- are available in more detail through Scottish Neighbourhood Statistics
- are available via an alternative route
- may be made available on request, subject to consideration of legal and ethical factors. Please contact [Ben.Cavanagh@Scotland.gsi.gov.uk](mailto:Ben.Cavanagh@Scotland.gsi.gov.uk) for further information.
- cannot be made available by Scottish Government for further analysis as Scottish Government is not the data controller.



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