



Policy and Strategy Paper No 06

Development of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

1 Introduction

The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 was passed in the Scottish Parliament on 14 December 2011 and was enacted on 1 March 2012. The purpose of this Policy and Strategy Paper is to outline some of the developments leading up to the introduction of the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill 2011 and its passing into becoming an act.

The paper summarises feedback from an evaluation of Football Banning Orders (FBOs), findings from the Joint Action Group (JAG) Report of July 2011 and information disseminated through a Football Coordination Unit for Scotland (FoCUS) event.

2 Background

The current majority SNP Government's Party Manifesto states that they have a zero tolerance approach to football related violence and prejudice, including domestic abuse, alcohol misuse, racism and sectarianism. Building on the work already underway through the Football Banning Orders (FBOs) which were introduced through the Police, Public Order and Criminal Justice (Scotland) Act 2006, the current administration have promised a much tougher stance on the aforementioned issues.

Football Banning Orders (FBOs) Evaluation 2011

Football Banning Orders (FBOs) were designed and implemented in Scotland through the Police, Public Order and Criminal Justice (Scotland) Act 2006 as a preventative measure designed to reduce violence at/or associated with football matches. An evaluation of FBOs was carried out by the Scottish Government in July 2011¹.

A person who receives a FBO is prohibited from attending regulated football matches and is required to surrender their passport when overseas matches are to be played. Additional restrictions, such as prohibiting the recipient of the FBO from being in the vicinity of football grounds on the day of the match can also be introduced.

When first introduced the FBO was intended to help tackle the violence and disorder specifically associated with sectarian rivalry. Additionally, it takes cognisance of other issues that are becoming prevalent on match days eg knife crime, race-hate crime, homophobic crime and domestic violence. Banning Orders can be imposed in addition to other sentences enforced by the court.

In order to issue a FBO the court must be satisfied that the offence involved engaging in violence or disorder and that it relates to a football match eg if it occurred

¹ Scottish Government Website, accessed February 2012 - <http://www.scotland.gov.uk/Resource/Doc/354566/0119713.pdf>

at, or on the way to or from a football match. One of the difficulties for the prosecuting authorities is that before a court can impose a FBO, the Act requires that it must be satisfied that there are reasonable grounds to believe that imposing the Banning Order will help prevent violence or disorder at/or on the way to or from football matches. The absence of a link between the circumstances of the offence and a reduction of football related violence if a FBO is imposed, or failure on the part of the authorities not to establish this fully, are two of the reasons why relatively few FBOs have been introduced in Scotland to date.

Joint Action Group Report July 2011

The zero tolerance approach and FBOs came to the fore in the aftermath of the infamous 'Shame Game' between Celtic and Rangers Football clubs on 2 March 2011. The official response to the events included a high level football summit on the 8 March 2011 from which a Joint Action Group (JAG) was created. The group comprises of politicians, police, the Scottish Premier League (SPL), the Scottish Football League (SFL), the Scottish Football Association (SFA) and Executive members of Celtic and Rangers Football clubs. The group's objectives are to ensure that specific projects are implemented to deal with football associated violence, bigotry, alcohol misuse and other issues. The JAG report² was published on 11 July 2011 and made a total of 41 recommendations, the implementation of which has commenced in all areas. A summary of the key recommendations can be found below.

- A Measures to reduce the consumption of alcohol before and after football matches.
- More power to the licensing trade.
 - Improved police enforcement of legislation in respect of supporters' buses.
 - An opportunity to restrict opening hours for off sales and licensed premises through the Alcohol etc. (Scotland) Act 2010.
- B Measures to tackle violence, bigotry and alcohol misuse associated with football through a consistent approach to policing at and around football across Scotland - supported by all those involved in the game.
- SFA member clubs to adopt a single code of conduct for players, staff and coaches.
 - Establish a national Football Policing Unit incorporating the Scottish FBO Authority to promote a consistent national approach to policing of football.
 - More training and awareness events for FBOs and further amendments to legislation to support them.
 - ACPOS to develop: a strategy to tackle Hate Crime, training around the new legislation and a good practice guide for all staff members.
 - Support for Police investigations into internet e-hate crime.
 - Development of a single standard information sharing protocol between the SFA and local Police Commanders.
 - Efforts to ensure that supporters are more aware of their responsibilities; and further academic research into the links between certain football matches and an increase in reports of domestic violence.

² Scottish Government Website, accessed February 2012 - <http://www.scotland.gov.uk/Resource/Doc/1124/0119254.pdf>

- C Measures to ensure the rules and regulations of football are respected and enforced, supported by consistent and transparent governance arrangements.
- Establishment of a formal sub-committee to periodically review the trends and behaviours affecting the game.
 - An independent Judicial Panel for all sanctioning and quasi-judicial functions of the SFA established.
 - New rules preventing club officials commenting on referees.
 - New communication technology developed to ensure that referees can send disciplinary information to the SFA promptly following a match.
 - Launch of a national 'Respect' Campaign that targets supporter groups, schools and the wider public.
- D Measures to explore and understand the practicalities of new fixture scheduling opportunities to minimise damage to communities.
- Meetings between ACPOS and the SPL to finalise fixtures list and identify any high risk matches.
 - Re-scheduling of the New Year Old Firm Derby.
 - More formal liaison with Police and SPL over information relating to potential threats developed.
- E Measures to better utilise the positive influence that football can have and the opportunities it presents to achieve behavioural change.
- Resources targeted at successful club based and football led initiatives.
 - Campaigns supported by the SPL should be limited at the beginning of the season to enhance their effectiveness eg the 2011/12 season focus is on 'Show Bigotry the Red Card' and an anti-domestic violence campaign.
 - Introduction of a football based programme as part of rehabilitation for those who do offend.
 - The Old Firm Alliance should be reconsidered and re-classified as a Football Alliance.

Football Coordination Unit Scotland (FoCUS)

The Football Coordination Unit Scotland (FoCUS) was established as a result of the Football Summit. Although operating out of Strathclyde Police, the unit is a national operation, involving officers from six Scottish forces and currently has funding until the end of the financial year 2012, however, it is expected that funding will be renewed.

FoCUS staff have been working with supporter groups from a range of clubs from the SPL and SFL providing them an opportunity to raise concerns and offering information about behaviour which is not deemed acceptable at football games, including: songs, chants, flags.

FoCUS is also responsible for coordinating the national Football Intelligence Officer network. These officers act as intelligence gatherers and are often deployed as football 'spotters' on match days. The role of spotters is becoming increasingly important as a result of the re-emergence of the 'casual' element within Scottish football. Combined with the increased use of body worn CCTV to identify persons known to police and match stewards this re-emergence has, on a number of occasions seen the 'casual' groups specifically targeting smaller matches where police presence is likely to be low. This provides an opportunity to cause trouble that

is often linked to excessive alcohol consumption and aggressive, threatening behaviour.

3 The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

The First Minister had initially hoped to have the new legislation, which would tackle sectarianism at football, passed through Parliament in time for the start of the 2011/12 season. The Offensive Behaviour at Football and Threatening Communications (Scotland) Bill was introduced on 16 June 2011, which coincided with the release of the evaluation of FBOs. The legislation was passed, on 14 December 2011 and was enacted on 1 March 2012 as the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012³. Royal Assent for the Act was received on 19 January 2012.

The new act criminalises threatening, hateful and offensive behaviour at regulated football matches and also criminalises communication of threats of violence or religious hatred. The emergence of the act introduces two new offences:

- **Offensive Behaviour at Regulated Football Matches:** Offensive and threatening behaviour at regulated football matches which would be likely to incite public disorder, including, sectarian and other offensive chanting and threatening behaviour.
- **Threatening Communication:** Threats of serious harm and or threats inciting religious hatred.

It is important to note that the introduction of this act does not prevent or criminalise peaceful preaching or proselytising, freedom of speech (including the right to criticise or comment on religion or non-religious beliefs) or jokes and satire about religion or non-religious belief.

The most contemporary element of the new legislation is that it covers, although is not restricted to, internet based crime under the heading threatening communications. This applies not only to people that are in Scotland but also to those who are abroad (whether or not they are ordinarily resident in Scotland) if the person making the communication uses the internet (mainly social media sites such as Facebook and Twitter) to disseminate threats of serious harm and threats that incite religious hatred and intends it to be read, listened to or seen primarily in Scotland.

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³ Legislation Website, accessed February 2012 - http://www.legislation.gov.uk/asp/2012/1/pdfs/asp_20120001_en.pdf