

## **LORD ADVOCATE'S GUIDELINES ON OFFENDING AT FOOTBALL**

### **Behaviour at Football Matches**

The singing of songs and chants, or the display of banners, that are clearly motivated by hatred on racial and religious grounds or by hatred of a group based on their sexual orientation, transgender identity or disability or which are threatening or abusive are examples of the types of behaviour which are criminal. A police officer must have regard to the nature and words of any song, chant or banner, including any non-standard lyrics or "add ons" and the context in which it is being sung or displayed, and must make an assessment as to whether there are reasonable grounds for suspecting that a person has committed or is committing an offence in order to arrest that person.

Officers should have regard to proportionality, legitimate football rivalry and common sense when assessing whether the conduct is criminal.

The following are examples of the types of songs and lyrics which are likely to be criminal:

- Songs/lyrics which promote or celebrate violence against another person's religion, culture or heritage
- Songs/lyrics which are hateful towards another person's religion or religious leaders, race, ethnicity, colour, sexuality, heritage or culture

The following are examples of the type of displays, songs and chants which are likely to be criminal:

- Flags, banners, songs or chants in support of terrorist organisations
- Flags, banners, songs or chants which glorify, celebrate or mock events involving the loss of life or serious injury.

The following are examples of behaviour which are not likely to be criminal:

- Singing national anthems in the absence of any other aggravating, threatening or offensive behaviour
- Making religious gestures in the absence of any other aggravating, threatening or offensive behaviour
- Football banter or bad taste in the absence of any other aggravating, threatening or offensive behaviour

### **Choice of Charges**

From the 20<sup>th</sup> April 2018 no-one can be convicted of, or sentenced for, an offence under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

Criminal offences committed at, or in connection with football, which may previously have been reported using section 1 or section 6 of the 2012 Act should therefore be assessed in terms of other existing alternative common law or other statutory offences and, where there is a prima facie sufficiency of evidence, reported and prosecuted using those alternative offences.

Behaviour at football matches can, in certain circumstances, constitute an offence under legislation such as Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010, threatening or abusive behaviour or under the common law, for example as a breach of the peace or culpable and reckless conduct.

### **Football Banning Orders**

There is a presumption that the prosecutor will seek a Football Banning Order wherever the offending meets the statutory test for such an order.

### **Diversion Schemes**

The facts and circumstances of all cases will be considered carefully. Where appropriate the accused will be prosecuted in Court with custodial sentences and Football Banning Orders being available as sentencing options. In some circumstances, given the nature of the offending and the background of the offender it may be deemed appropriate to divert certain cases from prosecution to a scheme which will offer the offender education and rehabilitation. Where this diversion scheme is not completed satisfactorily then a prosecution will follow.

All reports involving behaviour aggravated by prejudice should contain the views of the reporting officer in the remarks section as to the suitability, or otherwise, of the accused for such a scheme.

### **Fixed Penalties**

The use of Fixed Penalty Notices will be appropriate in respect of permitted offences (section 128 of the Anti-Social Behaviour (Scotland) Act 2004) where the behaviour is minor and the accused does not have a significant criminal record for football related crimes of disorder and a Football Banning Order is not the desired outcome.

### **Custody/Use of Undertakings**

In relation to the status of an arrested person whilst the matter is reported to the Procurator Fiscal, reference should be made to the Lord Advocate's Guidelines on Liberation.

In cases where an offence appears to have been committed and an early arrest is not possible, the police should ensure that an early report is submitted to the Procurator Fiscal in order that consideration may be given to an application for a warrant to arrest the accused.

### **Players and Officials**

In relation to the behaviour of players and officials at a football match further reference should be made to the **Lord Advocate's guidelines to Chief Constables [Incidents at Sporting Events](#)**

### **Football Liaison Prosecutors**

COPFS have dedicated Football Liaison Prosecutors (FLPs). The FLPs will engage with the Football Coordination Unit Scotland (FoCUS) that has been tasked with taking the lead on strategic thinking on the policing of Scottish football and will support the delivery of a consistent approach to the investigation and enforcement of offences related to football. The FLPs will liaise closely with the police and other key partners to:

- Ensure a consistent and robust response to cases which have a football related element;

- Raise awareness of Football Banning Orders;
- Work with the police to identify best practice and to further improve the quality of reporting of football related cases;
- Engage with a range of key stakeholders;
- Monitor the use of FBOs; and
- Contribute to training and the development of guidance.