

11 MAY 2005

nil

Challenging sectarianism

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9 May 2005

### **Supporting Police, Protecting Communities: Proposals for Legislation**

I enclose Nil by Mouth's response to the above consultation paper.

We are broadly supportive of the proposals but would specifically draw your attention to the following two issues which we consider particularly important:

1 In paragraph 3 of our response we highlight the need to introduce a specific offence relating to the chanting of an indecent or racist or religiously prejudiced nature at football matches. In our view, supported we believe by senior police officers, the existence of such an offence would make it easier to secure convictions rather than relying on a breach of the peace charge aggravated by religious prejudice.

2 The statutory power of local authorities to ban marches should be extended to include circumstances where there is a serious risk of sectarian behaviour and where a local community is likely to feel intimidated by such behaviour. We cover this point in paragraph 26 of our response.

If you require clarification of our views on any issue please do not hesitate to call me.

Yours sincerely,



Helen Miller  
Co-ordinator

## **Response to consultation paper on the Police Bill**

1 As the only Scottish charity dedicated to challenging sectarianism Nil by Mouth welcomes this opportunity to respond to the consultation paper Supporting Police, Protecting Communities.

2 Our response is limited to Section 4: Football Banning Orders and Section 5: Marches and Parades.

3 The consultation paper makes reference to football-related legislation in England and Wales. The Football (Offences) Act 1991 makes it a specific offence “to take part at a designated football match in chanting of an indecent or racist nature”. No such specific offence exists in Scotland and we are disappointed that the consultation paper contains no proposal to create such an offence. Nil by Mouth’s view is that it should be made an offence “to take part at a designated football match in chanting of an indecent or racist or religiously prejudiced nature.” The definition of religious prejudice could be based on the wording contained in Section 74 of the Criminal Justice (Scotland) Act 2003.

### **Football Banning Orders**

4 It is difficult to gauge how many people use football as an excuse to indulge in unacceptable violence. We suspect that the numbers are relatively small but in our view exceed “a small hardcore”. By contrast the problem of bigoted abuse at football matches remains widespread in our view.

**Question 15: Do you agree that football banning orders as described above are an appropriate and effective response to the problem of football-related violence and disorder?**

The issue of football banning orders has to be seen in the context of existing legislation. We reproduce in Appendix 1 a letter which we wrote to the First Minister on 24 March 2005 in which we called for a national initiative to ensure a consistency of approach across Scotland in relation to crimes aggravated by religious prejudice. We continue to believe that this is necessary and would make a major contribution towards reducing football-related sectarian behaviour.

It is also important that football clubs do not use the existence of legislation on football banning orders as an excuse to abandon their own responsibilities. Irrespective of any Court action, if a club has evidence that a spectator has acted in a sectarian manner eg by singing sectarian songs that person should be banned from attendance at future matches and should have his or her season ticket removed.

Subject to these comments we support the introduction of football banning orders in Scotland.

**Question 16: Do you agree that courts should be able to impose banning orders on conviction for a football-related offence and on summary application by a Chief Constable?**

Yes.

**Question 17: Do you agree that the courts should be able to make a banning order if they are satisfied that it would help reduce football-related disorder, specifically the stirring up of hatred against others or threatening, abusive or insulting behaviour at or in connection with a football match?**

Yes. This should apply particularly to anyone convicted of any offence aggravated by religious hatred.

**Question 18: Do you agree with the proposed length of a banning order and the proposed penalty for breach of a banning order?**

Yes.

**Question 19: Do you agree that banning orders should apply to all competitive and friendly games involving the Scottish national team and SPL and SFL clubs?**

Yes.

**Question 20: Do you agree that the Scottish Police should take on the administration of the banning orders?**

Yes.

### **Marches and Parades**

5 Nil by Mouth's interest in this area stems from the fact that many marches and parades in Scotland are disfigured by ugly sectarian behaviour which can leave communities feeling intimidated and can lead to violence. Whilst we broadly welcome Sir John Orr's Report on Marches and Parades our focus is on the elimination of that sectarian behaviour and it is against that criterion that we will judge the effectiveness of new legislation and procedures introduced in response to Sir John's Report.

**Question 21: Do you agree that organisers should be required to give local authorities and the police 28 days notice of their intention to hold a procession?**

Yes.

**Question 22: Do you agree that the 28 days notice period should be dispensed with in limited circumstances?**

Yes.

**Question 23: Do you agree that organisers of all marches and parades should give notice of their intention to local authorities and the police?**

Yes.

**Question 24: Do you agree that there should be regulations setting out the key steps and timetable for taking decisions on notifications?**

Yes. The suggested elements of the timetable seem to be appropriate. It is important that the risk assessment and analysis includes consideration of (a) the past behaviour of the organisers and (b) the behaviour of those involved in previous marches and parades of a similar nature.

**Question 25: Do you agree that local authorities should be able to take into account wider views, including community views, when taking decisions on procession notifications and that they should put in place transparent procedures as to how those views will be considered?**

Yes. It is particularly important that community views are taken into account. This would include the views of businesses potentially affected by a proposed march or parade. Procedures should be introduced to ensure that views can be given on a confidential basis to reduce the risk of intimidation and reprisals.

**Question 26: Do you agree that local authorities should be able to take into account wider issues when taking decisions on procession notifications?**

Yes. The list of suggested issues to be taken into account is appropriate but we would add one more. In considering whether or not to ban a march the police should also be able to take account of the risk of serious sectarian abuse and intimidation. Evidence of such a risk might come from the identity of the organisers and their past records, from local people affected by previous marches of a similar nature or from debriefing meetings relating to marches of a similar nature.

**Question 27: Do you agree that local authorities should be able to impose wider conditions on procession notifications?**

Yes. We believe that local authorities should have the power to impose conditions which will reduce the threat of sectarian behaviour. These would include:

- A ban on the consumption of alcohol by march participants
- A ban on sectarian singing, chanting or music
- A ban on sectarian symbols and language on clothes, flags etc
- A ban on music outside prescribed hours and in sensitive areas (e.g. places of worship).

Local authorities should also have the power to require march organisers to take out insurance and to provide a good behaviour bond.

**Question 28: Do you agree that there should be a code of conduct prepared by the police and local authorities?**

Yes. We would be happy to participate in the drafting of such a code.

**Question 29: Do you agree that organisers and participants in breach of the new statutory requirements remain subject to the same penalties as currently?**

Yes with the proviso (a) that any breach aggravated by religious or racial prejudice should be more heavily punished and (b) that the penalties should include a ban on organising or participating in a march or parade for a fixed period.