

Mr. Paul Wheelhouse MSP  
Minister for Community Safety and Legal Affairs  
St. Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

Dear Mr. Wheelhouse -

**C.C. Kenny MacAskill MSP**  
Petitions Committee Convenor – Michael McMahon MSP  
Marian McLean – Police Scotland  
David Bell – Community Safety Unit  
Paul Quigley – Fans Against Criminalisation

***RE. Public Petitions Committee – Fans against Criminalisation – Review of the 'Offensive Behaviour at Football and Threatening Communications Act (Scotland) 2012'***

Following yesterday's (12/01/15) verbal evidence submission at the Public Petitions Committee by Jeanette Findlay and Paul Quigley of 'Fans against Criminalisation' (FAC) in relation to an additional review of the 'Offensive Behaviour at Football and Threatening Communications Act (Scotland) 2012', I have been instructed by the board of BEMIS Scotland to share our analysis of this policy area.

Having sought the views of members on the Acts impact including Irish Community organisations, it is our conclusion that while beneficial, as a piece of evidence, the initial 'Stirling Report' has not captured the full extent of the Act's ramifications particularly in reference to the widely acknowledged major impact on Scotland's diverse, multi-generational Irish community.

The initial 'Equality Impact Assessment' in relation to the Act outlined the following commitments:

***RACE***

*93. As part of the post-implementation work on the Bill, the Scottish Government will look at holistic ways of further building a strong evidence base in relation to tackling the issue of sectarianism, as well as other forms of bigoted and discriminatory behaviour. Continually developing the evidence base will enable our understanding of the following:*

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- *The impact the legislation is having on people of different races and ethnicities.*
- *The impact of related policy in this area on people of different races and ethnicities*

To the best of our knowledge and having conversed with our members including Irish community organisations no further Equality Impact assessments have taken place. In relation to the Stirling University evidence review, we are also unaware of any specific Equalities engagement in relation to the commitments outlined in the initial Equality Impact Assessment.

We believe that it is important that Section 93 of the Equality Impact Assessment should be progressed as a priority at the next appropriate opportunity and made publically available.

We are aware, having supported your officials Mr. David Bell and Mr. Stephen Coulter (Community Safety Team) that there are provisional plans to engage the broad and the diverse Irish communities in a forthcoming consultation facilitated by Dr Duncan Morrow. It is our understanding that these conversations will progress with a 'blank canvas' enabling the communities to identify issues of specific interest to them and in this regard we welcome their approach and would emphasise our commitment to progressing positive and informed discussions with various stakeholders.

We would also like to take this opportunity to highlight that on Friday 5<sup>th</sup> February BEMIS have scheduled a meeting with Operations Inspector Marian McLean, Chief Inspector Stuart McGregor and Paul Matheson of Police Scotland / FoCUS to have an initial discussion in relation to the potential impact of 'Easter Rising Anniversary Commemorations / Celebrations'. It is our view that this is an issue for Police Scotland to engage directly with various dimensions of the Irish community, including football supporters. We will encourage all stakeholders to participate and will help facilitate that where relevant, when requested and appropriate.

However, for the record, and in line with our diverse communities expectations, from an equalities and ethnicity perspective expressions of intangible cultural heritage, which pertain to the commemoration of historical events need not be the focus of Police or Judicial attention if those expressions do not constitute a hate crime: i.e. A crime based upon a prejudice or hatred towards a protected characteristic. It is within this context that Section 1 of the 'Offensive Behaviour at Football and Threatening Communications Act' covering general offensiveness becomes highly contentious and problematic.

We acknowledge that commemorations in relation to the 1916 Irish Rebellion will not be universally celebrated, however we are equally aware that these events have a particular resonance and importance for Scotland's Irish community and others. Similarly, events commemorating the Battle of the Somme in 1916 will be of significant importance for many across the UK particularly those with a family or historical connection to that event.

It is BEMIS informed opinion that if proportionate and appropriate commemorations of either event take place citizens including football fans should not be subject to criminal proceedings. We are of the view that celebrating an Irish, Asian, Scottish or British cultural or political identity does not, in itself, constitute 'sectarianism' or 'offensiveness' unless there is an unambiguous negative reference to an individual or communities ethnic or religious identity.

We will outline and evidence this position to colleagues in Police Scotland at our meeting on the 5<sup>th</sup> February and look forward to progressing positive discussions with them in due course. In this regard we would urge the Scottish Government and Police Scotland to continue to uphold the spirit of the Equality Act and General Equality Duties specifically to;

- Foster good relations between different groups.

This also chimes with our recognition of the Irish community as an ethnic and cultural minority under the definition of 'Race' as set out by the Equality and Human Rights Commission.

***Race:*** *Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.*

Good relations may be between various communities but should also underpin the relationship between key public bodies such as Police Scotland and communities of interest, in this instance the diverse Irish community.

It is with concern and in a spirit of cooperation that we note the verbal submission provided by 'Fans Against Criminalisation' (FAC) that there has been a regression in the relationship between diverse citizens and Police Scotland and agree with the point outlined by Ms. Jeanette Findlay that this *'is in nobodies interest'*.

In addition, specifically in relation to the verbal submission provided by 'Fans Against Criminalisation' (FAC) representatives at yesterday's Public Petitions Committee, we would like to place on record our concern with the remarks made by Mr. Kenny MacAskill MSP.

Mr. MacAskill's line of questioning in relation to Catholic police officers who have been targets of terrorist related activity in Northern Ireland was irrelevant to the detail of the petition and did not help or add value to the debate. Furthermore from an equalities perspective our members believe that it was a misjudgement by Mr. MacAskill to persevere with a line of questioning which was perceived to bestow responsibility of the **'veneration of dissident republicans'** onto the witness Mr. Paul Quigley.

The political institutions of the UK, Scotland and Northern Ireland are held in high esteem and supported by the overwhelming majority of Scotland's diverse communities, including our multi-generational Irish community. In any context, queries which pertain to the acute extremes of terrorism based upon an assumption of an individual's ethnicity and subsequent political or religious identity are misinformed and without foundation.

Scotland's diverse ethnic and cultural minority communities, including our Irish communities, are not responsible for or attached through perceived religious, ethnic, sporting or political identity to the abhorrent extremes of any particular self-proclaimed representative group who continue to indulge in violent activity.

Finally, to summarise, we are committed to working with the Scottish Government and key stakeholders to progress positive discussions and outcomes around this myriad of issues. We welcome the forthcoming approach to broader community engagement and acknowledge the positive discussions we have shared with DR. Morrow, Mr. Bell and Mr. Coulter in this regard.

In addition we would encourage a further opportunity to submit evidence on the 'Offensive Behaviour Acts' implementation from an Equalities perspective involving a broader group of stakeholders. In our role as an intermediary body we are committed to fulfilling our obligations in this regard. The notion is enforced through the fundamental purpose of BEMIS which is to enthuse a culture of active citizenship within our diverse communities and enable them to participate in all facets of Scottish society.

On behalf of the board of BEMIS Scotland we acknowledge the offer to meet in your communication dated 16/05/2015. In light of recent developments it may be worthwhile, diary permitting pre-Scottish Parliamentary Election, to discuss some of our broader work in terms of progressing positive community relations.

We are delighted to inform you that on the 25<sup>th</sup> of January BEMIS will host the 'BEMIS Celebrates Burns' event at the world renowned Celtic Connections festival bringing together diverse community representatives from across Scotland and others to celebrate our mosaic of communities and Scotland's living traditions. I have extended an invitation to Mr. David Bell from the community safety team and hope that he or another team member may be able to join us on the night.

In anticipation of future discussion, with best regards and best wishes for 2016.

Danny Boyle

Parliamentary and Policy Officer  
BEMIS Scotland  
13/01/2016

### ANNEX

Equality Impact Assessment OFBA: <http://www.gov.scot/Resource/Doc/925/0118334.pdf>

Equality and Human Rights Commission: <http://www.equalityhumanrights.com/private-and-public-sector-guidance/guidance-all/protected-characteristics>