

Institution: Abertay University		
Unit of Assessment: 21 - Sociology		
Title of case study: Repealing the Named Person Policy and the Offensive Behaviour at Football Act		
Period when the underpinning research was undertaken: 2010 to 2017		
Details of staff conducting the underpinning research from the submitting unit:		
Name: Stuart Waiton	Role (e.g. job title): Senior Lecturer	Period employed by submitting HEI: 2007 – present
Period when the claimed impact occurred: 2014 to 2018		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact <p>Waiton has delivered impact in the areas of the ‘policing’ and criminalisation of everyday life, with particular reference to the Scottish context.</p> <p>Waiton’s research identified the development of ‘risk’-based practices in Scotland that undermined the autonomy of families. This research contributed significantly to the repeal of the Scottish Government’s Named Person initiative, which breached human rights laws on privacy, lacked a clear definition of ‘wellbeing’, and unreasonably expanded state intervention into the family unit. The Supreme Court ruled against the Named Person initiative in July 2016.</p> <p>Waiton’s research showed that Football fans were being over-criminalised as a result of the targeted and prejudicial nature of the Offensive Behaviour at Football Act in Scotland. His research contributed significantly to the repeal of the act in March 2018 on the basis that the act excessively expanded the criminalisation of language and discriminated against football fans.</p>		
2. Underpinning research <p>Overview</p> <p>Waiton’s research provides original and significant insights into the ‘policing’ and criminalisation of everyday life. His work stems from the observation that life is increasingly policed by public authorities (in particular the state) which progressively expand their policing processes into various areas of social life, subsuming a broader range of normal, everyday social actions and relations under categories of deviance or even crime. The idea that the state becomes increasingly involved in the micro-management of everyday life, is what the German sociologist Habermas called the ‘colonisation of the lifeworld’.</p> <p>Waiton’s qualitative research combines wider sociological theories and action research with public service users and stakeholders to study the ‘policing’ and criminalisation of everyday private life. It combines a socio-legal analysis with political sociology to address the construction of social problems of everyday life, engaging stakeholders and newly formed, sometimes temporary, social movements. Waiton’s research also has international relevance at a theoretical level through its conceptualisation of the ‘new class’ (understood here to be the new political and cultural elites and the bureaucracy that sustains it), their changing values and subsequent changes in the nature of the state and to law. This new managerial form of governing enacted by the ‘new class’ focuses on micro-management of relationships in society</p>		

and has been assisted by the largely unquestioned rise of therapeutic responses, focused on the emotional well-being of the public as a basis for creating a better society [3.1].

Named Person Scheme

The Named Person scheme was a Scottish Government initiative to give every child in Scotland an assigned named person from birth who would be responsible for helping the child get support if and when they needed it. Whilst predicated on increasing the well-being of children in the country, this initiative is an example of the state micro-management and colonisation of everyday life, with policy makers becoming increasingly concerned about the relationship between parents and children. The Named Person initiative would have transformed the basis of data sharing and in part, state intervention, from a risk/welfare framework to one based on the far broader idea of early intervention to 'promote the wellbeing' of all children and young people. As a new universal approach to child safety and children's services more generally, the potential impact of the Named Person scheme on families and professionals working with families across Scotland was significant. A range of parent and professional groups opposed this expanding role of the state into family life.

Waiton's research highlighted the developing 'risk'-based practices emerging in Scotland that undermined autonomy through a therapeutic governing of families [3.1, 3.2]. The work interlinked theoretical arguments with participation research developed with parents' groups. Waiton developed a conceptual understanding of the 'well-being state' through a documentary analysis of family policies, with specific reference to the Children and Young People (Scotland) Act 2014 [3.3]. This research builds upon Waiton's approach to 'amoral panics', the growth of risk management in family policies, and the development of professional 'experts' of parenting. It examines how parental authority and autonomy are undermined by 'early intervention' initiatives and the 'new authoritarianism' apparent in the creation of the Named Person policy [3.4]. This work highlighted the disjuncture between policy makers and parents, the problematic and ill-defined transformation of the welfare state to what was defined here as 'Third Way Parenting' – a new type of micro-management of everyday private life.

Offensive Behaviour at Football Act

The Offensive Behaviour at Football Act expanded the policing of language in Scotland specifically in relation to football fans. This is another relevant example of the criminalisation of everyday life. Waiton's research showed that fans were being over-criminalised as a result of the targeted and prejudicial nature of the new act, which undermined the universality and legitimacy of law. Furthermore, the research developed an understanding of a new form of intra-fan 'sectarianism' that elevated the alleged intolerance of 'offended' fans in response to the Act.

Waiton engaged in participation action research with football fans to address the problem of discriminatory policing and the over-regulation of language. He analysed online fan discussions to develop a new understanding of the role played by the criminalisation of language in creating new types of 'offensiveness' through which sectarian rivalries were articulated.

This work highlighted the move away from the policing of physical violence to the policing of words, now conceived as acts of violence. Emphasis was given to understanding the role of the 'elites' in the moralisation of public discourse around the issue of sectarianism and offence [3.5]. The research demonstrated how the specific targeting of football fans' language, rather than the language of 'cultural producers', as a criminal offence carrying a potential penalty of five years in prison, undermined the universal basis of law [3.6].

3. References to the research

3.1 Waiton, S. (2017). The new class and the well-being state. In K. Almqvist, & I. Thomas (Eds.), The future of the welfare state. Sweden: Axess Publishing AB. pp. 123-130. (Book chapter published by a Swedish based private foundation with the primary purpose of promoting scientific and scholarly research). *Can be supplied by the HEI on request.*

3.2 Waiton, S. (2010) 'The Antisocialisation of Children and Young People: Undermining Professionals and Colonising Everyday Life', in Youth and Policy, No.105 (Nov): 37-49. url: https://www.youthandpolicy.org/wp-content/uploads/2017/06/youthandpolicy_105-1.pdf (Article in youth work and child based professional journal aiming at encouraging high quality debate and dialogue between policy-makers, academics and practitioners).

3.3 Waiton, S. (2016) Third way parenting and the creation of the "named person" in Scotland: The end of family privacy and autonomy? Sage Open 6(1). doi: <https://doi.org/10.1177/2158244016629525>. (Social science-based journal article in the open access, peer reviewed journal, Sage Open).

3.4 Waiton, S. (2015) 'Amoral panic: The fall of the autonomous family and the rise of 'early intervention'' in Cree, V.E., (ed) Gender and Family. Bristol: Policy Press pp.55-66. (Book chapter in an edited collection of international work exploring gender and family through the prism of moral panics). *Can be supplied by the HEI on request.*

3.5 Waiton, S. (2014) 'Football fans in an age of intolerance', in Hopkins M., Treadwell, J. (eds.) Football hooliganism, fan behaviour and crime. London: Palgrave MacMillan pp.201-221. doi https://doi.org/10.1057/9781137347978_10 (Book chapter in a UK focused but globally relevant criminological study of the managing of football fans).

3.6 Waiton, S. (2018) 'Criminalizing songs and symbols in Scottish Football: How anti-sectarian legislation has created a new 'sectarian' divide in Scotland'. Soccer & Society, 19 (2): 169-184. Doi: <https://doi.org/10.1080/14660970.2015.1133413> (Journal article in the international social scientific journal, Soccer & Society).

4. Details of the impact

Key impacts

Waiton's Named Person research contributed significantly to the repeal of the Scottish Government's initiative which breached human rights laws on privacy and unreasonably expanded state intervention into the family unit. The UK Supreme Court ruled against the Scottish Government in July 2016 **[5.1]**.

Waiton's research into the criminalisation of football fans, in collaboration with football fan groups, contributed significantly to the repeal of the Offensive Behaviour at Football Act in Scotland, helping to demonstrate that the act excessively expanded the criminalisation of language and discriminated against football fans. The act was repealed by the Scottish Parliament in March 2018 **[5.2]**.

Named Person impact

In June 2013, Waiton gave an oral submission to the Education and Culture Committee on policies regarding children at risk, and in August 2013 he produced a written submission regarding the Named Person section of the Children and Young People (Scotland) Bill. He then coordinated a meeting of stakeholders in the Named Person scheme at the Scottish Parliament with MSP Liz Smith, who later commended him for his "*excellent*" research into well-being **[5.3]**. He was also invited to speak to Scottish Conservative MSPs at the Scottish Parliament about the Named Person initiative **[5.3]**.

In December 2013, Waiton's research was referenced in the Scottish Parliament regarding discussions about the repeal of the Named Person aspect of the Children and Young People (Scotland) Act 2014. MSP and Presiding Officer of the Scottish Parliament, Ken Macintosh noted that Waiton had usefully argued in his submissions that:

'the bureaucratisation of adult-child relationships has undermined our ability to exercise personal judgment' [5.4].

In 2014, helped by MSP Liz Smith, Waiton set up a meeting with interested parties that opposed the Named Person legislation. This led to the creation of the campaign group 'Say No to the Named Person Scheme' (NO2NP). NO2NP believed that the legislation would undermine parents' responsibility over their own children and allow state officials unprecedented powers to interfere with family life. Waiton organised several public discussions as part of the NO2NP group and chaired or spoke at 12 roadshows across Scotland: around 500 people attended the meetings. A petition against the Named Person was also established and received 37,000 signatures.

Throughout the campaign (2014-2016), Waiton was the most publicly cited academic within the media having written several newspaper articles about the Named Person initiative, appeared on numerous television and radio programmes and named in 50 articles about the subject [5.5]. He was a board member of the NO2NP campaign established to influence strategy and through this, conferences, roadshows and media work became the most influential academic within the social movements opposing the Named Person.

In July 2016, the Supreme Court ruled against the Scottish Government's Named Person scheme. They ruled that the establishment of a Named Person scheme would breach data protection laws and that a more coherent concept of wellbeing needed to be defined (both aspects highlighted in Waiton's work) [5.1]. Education secretary John Swinney initially pushed for a new information sharing bill, but eventually conceded defeat and repealed the Named Person provision of the Children and Young People (Scotland) Act 2014, as required by the Supreme Court.

In October 2016, the NO2NP campaign won the Glasgow Herald's 'Public Campaign of the Year'.

The impact of the repeal of the act has been significant. For parent groups and professional organisations this has meant an improvement in professional practices and services through a more positive approach to families and the limiting of unnecessary interventions and breaches of privacy. A survey of health visitors, for example found that more than half opposed the Named Person scheme.

In 2018, Dr Waiton's research into the Named Person's scheme (specifically around the definition and understanding of the term 'wellbeing', human rights laws on privacy and the problematic nature of data sharing) was incorporated into the Palgrave Handbook of Education Law for Schools [5.6].

Offensive Behaviour at Football impact

A combination of Waiton's participatory action research with football fans, written work (both academic and in the media), and his submissions to the Scottish Parliament contributed to the Offensive Behaviour at Football and Threatening Communication (Scotland) Bill being overturned in 2018 [5.2].

In Sept 2011, Dr Waiton was an invited witness in the Scottish Parliament to provide an oral submission on the Offensive Behaviour at Football and Threatening Communication (Scotland) Bill [5.7]. As a result of his submission and the response to it by football fans, Waiton undertook new participatory action research with football fans to explore the problem of discriminatory policing and the over-regulation of language in relation to football [3.6].

In November 2017, Waiton was invited to give a second oral submission to the Parliamentary committee [5.8] and his written submission was used as evidence in MSP James Kelly's

statement proposing the repeal of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act [5.9].

In Jan 2018, the Scottish Parliament held a debate on the repealing of the Act. Waiton's arguments regarding tolerance and freedom of speech were used in the Scottish Parliament as part of the challenge to the Offensive Behaviour Act. During the debate, MSP Gordon Lindhurst noted:

'Inventing a reasonable person and thereby an arbitrary threshold as to what is offensive is itself, in this context, an unacceptable limit on freedom of expression. Indeed, Dr Stuart Waiton said that the 2012 act criminalises "words and thoughts" [5.10].

In March 2018, the Offensive Behaviour at Football Act was repealed by the Scottish Parliament. Maurice Corry MSP stated, during this session that the illiberal position was accurately described by Dr Stuart Waiton: the act criminalises "words and thoughts" [5.2].

5. Sources to corroborate the impact

5.1 UK Supreme Court ruling: <https://www.supremecourt.uk/cases/docs/uksc-2015-0216-judgment.pdf>

5.2 Meeting of the Scottish Parliament, Thursday 15 March 2018 at which the Offensive Behaviour at Football Act in Scotland was repealed:

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11421&mode=pdf>

5.3 Individual to contact: Liz Smith MSP: Elizabeth.Smith.msp@scottish.parliament.uk.

5.4 Meeting of the Scottish Parliament 05 December 2013

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=9379&mode=html>

Section on Taking Children into Care; 15.29 onwards.

5.5 Summary of Dr Waiton's work, articles, talks and activities as part of the NO2NP campaign

<https://no2np.org/tag/stuart-waiton/>

5.6 The Palgrave Handbook of Education Law for Schools, a handbook for headteachers and teachers regarding the law and legal practices needed for Schools in Scotland. Chapter 10: Issues and Impact of the Named Person Legislation in Scotland.

https://link.springer.com/chapter/10.1007/978-3-319-77751-1_23 Includes four references to Waiton's research paper [3.3].

5.7 Justice Committee Official Report, Tuesday 6 September 2011, pp183-208

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=6437&mode=pdf>

5.8 Scottish Parliament Justice Committee 14th November 2017. Item 5: Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill. 11:47am onwards

<https://www.scottishparliament.tv/meeting/justice-committee-november-14-2017>

5.9 Justice Committee Minutes, Tuesday 14 November 2017, pp35-61

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11199&mode=pdf>

5.10 Meeting of the Parliament, Thursday 25 January 2018, pp43-97; quote from pp92.

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11325&mode=pdf>