



**PUBLIC PETITION NO.**

**PE01333**

### **Name of petitioner**

Shamus McPhee on behalf of Scottish Gypsy Traveller Law Reform Coalition

### **Petition title**

Disadvantaged Scottish Gypsy Travellers and members of the settled community

### **Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to investigate the inequalities and discrimination faced by Scottish Gypsy Travellers and other members of the settled community residing in mobile homes in terms of assessing council tax liability and water and water and sewerage charges.

### **Action taken to resolve issues of concern before submitting the petition**

These matters were raised at the Perth and Kinross Council Gypsy Liaison Group ten years ago. The council was to look into it and get back to Mr McPhee but it never did. They were also brought to the attention of the Scottish Parliament's Equal Opportunities Committee and the Scottish Government's Equality Unit. The matters were raised at the Strategic Review Group on Gypsy Travellers which was convened by the Equality Unit. The Equality Unit said that there was nothing that it could do if that was what the legislation stated. The Minister, John Swinney MSP told Mr McPhee that the charges could be exempted and didn't see why the council couldn't exempt the charges as it had discretionary powers. These matters were also raised with Perth and Kinross' Councillor Kate Howie.

Complaints have been submitted to Central Scotland Race Equality Council and prior to that to the Commission for Racial Equality, but none were acted upon. It has been raised verbally with the Equality and Human Rights Commission which felt it to be too complex an issue. As a result of the failure to act on numerous other complaints and the difficulties accessing legal aid these had to be raised in the Court of Human Rights in Strasbourg.

### **Petition background information**

The living conditions and abuse of human rights that many Gypsy Travellers and others have had to endure for decades in modern day Scotland is totally unacceptable. Bobbin Mill provides just one well documented record of Scotland's injustice and a distinct lack of compassion (Spiorad a' Charthannais). There are many similar examples throughout the length and breadth of Scotland and many of these have been well documented in many reports, some of which were commissioned by the Scottish Government.

Examples of reports would include the Commission for Racial Equality Shadow Report - United Kingdom's Second Report to the Council of Europe Under the Framework Convention for the Protection of National Minorities, 30 March 2007, numerous Reports commissioned by Communities Scotland and SHR and "Inequalities experienced by Gypsy and Traveller Communities; A Review by Cemlyn, Greenfields, Burnett, Matthews and Whitwell (2009). There was also of course the 37 recommendations made by the EOC in 2001. More specifically our complaint centred on the inherent contradiction in so far as the application of the law in assessing council tax liability.

As an example, in the case of Bobbin Mill referred to above a complaint was made to the Commission for Racial Equality that there had been discrimination in respect of water and waste-water charges - given that the complainant was devoid of these services. This complaint was not taken forward. Yet singularly the charges for water and waste water were dropped after a seven year period had elapsed leaving the complainant feeling vindicated that his initial complaint was not ill-founded. Other examples that would be relevant to this e petition is a case cited by the Assessors' Office in Perth about an individual residing in Skye, who was living below tolerable standards. There are also cases known to the SGTLCRC in Pitlochry and Stanley which would also be relevant.

The overarching issue here is the discrepancy between the Local Government Finance (Scotland) Act 1992 under which a caravan must be classed as a dwelling for the purposes of council tax banding. Whereas under Section 86 (1) of the Housing Act (Scotland) Act 1987 and subsequent Acts, a caravan cannot be classed as a dwelling in so far as the assessment of minimal tolerable standards. This means that even if a caravan is unfit for human habitation and should otherwise be exempted, the occupant will be charged the same figure as a house dweller whose property is valued up to £29,000 under band A. The result of this is that caravan dwellers are seriously disadvantaged under the law and therefore the victims of discrimination. The racial group most affected by this is the Gypsy Traveller community and this is highlighted in recent literature concerning temporary stop notices where it was thought that caravan dwellers who would be most likely to benefit from recent amendments would be Gypsy Travellers.

One of the difficulties in dealing with this in Tayside was the position taken by the Assessors' Office who made it clear that they followed the law but would not consider carrying out an impact assessment of their policies to ascertain whether or not their policies were discriminatory or not. The response was always 'but we are only following the law' a reference to Section 72 (c) of the Local Government Finance (Scotland) Act 1992, yet failing to apply the Wednesbury Reasonableness criterion which states quite clearly that a decision made must be reasonable and in keeping with the Human Rights Act 1998. There is a clear lack of accountability.

Clearly the decision taken in respect of the residents of Bobbin Mill does not tally with the recommendations and strictures imposed by European Law. The complainant is now faced with the spectre of being declared bankrupt due to the inertia of the race equality organisations who have continued to mishandle his grievance.

We would like an investigation of why complaints to Race Equality Councils and the Commission for Racial Equality were not acted upon. This entailed launching a judicial review, instituting legal action and serving an RR65 on the offending local authority. This was all agreed by the complainants and the Race Equality Council who undertook to handle the complaint. (Amnesty International and the British Association of Social Workers are also seeking an inquiry in to the functioning of the Equalities and Human Rights Commission).

A judicial review is being sought by the complainant to investigate the decision making which has allowed this act of discrimination to occur – i.e. Local Government Finance (Scotland) Act 1992 v Housing (Scotland) Act 1987. What is of particular interest is that if current legislation had been followed by the government in power, impact assessments would have been undertaken and this should have uncovered the discrepancies and discriminatory practices which were inherent in these policies.

A meeting had already been promised by Alex Salmond, First Minister with the Justice

Secretary and Community Minister to discuss the inadequacy of the Scottish legal framework in relation to Gypsy Traveller attempts to secure social justice and legal redress. The First Minister, at the STUC conference in 2008, assured representatives that the Justice Minister would meet with representatives of the Scottish Gypsy Traveller Law Reform Coalition but failed to keep his word.

We would like the Committee to ask why an amendment has never been made to the Race Relations Act 1976 which would seek to include Scottish Gypsy Travellers as an ethnic group, notwithstanding the successful judgement in the case of K MacLennan v GTEIP. This would greatly assist this community as was pointed out by the Equal Opportunities Committee in 2005 and the European Commission in 2004. This is essential if Gypsy Travellers are to be able to access legal redress.

Why have the other two pieces of legislation i.e. Local Government Finance (Scotland) Act 1992 and the Housing (Scotland) Act 1987 not been amended in spite of these issues having been already raised, the last occasion was at the Equal Opportunities meeting that took place in March 2009?

#### Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01333>

#### Related information for petition

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NO

**How many signatures have you collected so far?**

95

**Closing date for collecting signatures online**

N/A

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