

SCOTTISH GOVERNMENT RESPONSE TO THE QUESTIONS RAISED BY THE PUBLIC PETITIONS COMMITTEE – PETITION PE1364

Question 1: Are you satisfied that guidelines used by the police and local authorities to manage unauthorised traveller camps such as “occupational travellers” on private land are clear, unambiguous and properly applied? If not, what are the issues that need to be addressed and by whom?

Scottish Government Answer: The Scottish Government’s guidelines on managing unauthorised encampments, issued in December 2004, are intended to provide guidance and advice to help local authorities and the police to develop their own policies for managing unauthorised camping in their areas. It is the Scottish Government’s position however that these guidelines should not be viewed in isolation as the solution to problems associated with unauthorised camping. The guidelines should be part of each local authority’s co-ordinated strategy for addressing the needs of the Gypsy/Traveller community, including the provision of authorised sites, in a way which both recognises their ethnicity, reflects local circumstances and the needs of the settled community.

The guidelines advise that private landowners should take their own legal advice and action, where appropriate. The guidelines also advise that local authorities can take appropriate action to protect their own land and can advise private landowners how best to secure their land.

The Scottish Government undertook a review of its guidelines on the management of unauthorised camping in 2007. The review report concluded that most local authorities found the guidelines to be useful to them in managing unauthorised camping. There are presently no plans to review the national guidelines.

The Scottish Government acknowledges that a range of concerns have been raised both through the media, Ministerial correspondence and public petitions, regarding Gypsies/Travellers (including occupational travellers) unauthorised camping on both public and private land.

The Scottish Government continues to be concerned about the situation surrounding Gypsy/Traveller encampments and how it can best work to assist local organisations to progress and resolve these matters. The Scottish Government is aware of the particular difficulties around some Gypsy/Traveller encampments in the North East.

In addition, Mr Neil has also called a key stakeholders meeting (including local MSPs, officials from Aberdeen City and Aberdeenshire Councils, the Convention of Scottish Local Authorities, ACPOS, the European Commission on Human Rights, and Gypsy/Traveller interests) to discuss the issues and opportunities for clarifying and improving related guidelines and procedures.

The police role in the management of unauthorised encampments is clearly specified within Association of Chief Police Officers in Scotland (ACPOS) guidance on this issue and matters on policing strategy are at the discretion of the responsible police authorities. Chief Constables are entirely responsible for operational matters

affecting their force and neither Scottish Ministers nor the Scottish Government can intervene or comment on individual cases.

Question 2: The concerns and experience of the petitioner and others in their situation is that local authorities and police forces do not step in for fear they could be accused of breaching a policy of non-harassment of ethnic groups. Is this not an indication that legal definitions of and guidelines relating to different groups of travellers could be clearer?

Scottish Government Answer: The Scottish Government recognises that Gypsies/Travellers are a distinct ethnic group and amongst the most disenfranchised and discriminated against communities in Scotland. The enforcement of equal opportunities is not within the power of the Scottish Government, in relation to the legal recognition of Scottish Gypsies/Travellers as an ethnic group, since legislation around this is a reserved matter.

It is the responsibility of individual public authorities to take enforcement or eviction action. The Unauthorised Camping Guidelines state that all decisions to take legal action should uphold human rights and withstand scrutiny. There is a general presumption against prosecution. However this presumption may be over-ridden by public interest considerations.

The term 'Gypsy/Traveller' is a sensitive area and the Scottish Government's guidelines on unauthorised camping says that Gypsies/Travellers refers to all those who wish to be defined primarily by their ethnic origin, and doesn't include fairground or travelling show-people, occupational and New Age travellers.

The Scottish Government can confirm that as the Petitions Committee heard at its meeting on 26 October 2010, there is presently no differentiation in legislation between Gypsies/Travellers and other groups of travellers, particularly in relation to the provisions of the Trespass (Scotland) Act 1865.

Question 3: Do "occupational travellers" benefit from the same protection afforded to Gypsies/Travellers?

Scottish Government Answer: As there is currently no differentiation in legislation between Gypsies/Travellers and other travelling groups the Scottish Government's view is that it would expect to see the law applied equally to all groups of travellers.

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