



ARTICLE 12 IN SCOTLAND



CONSIDERATION OF PETITION PE1364

Article 12 in Scotland welcomes the opportunity to respond to the issues raised in this petition.

Q1. What is your view on the issues raised in the petition?

The petitioner cites the lack of transit/halt sites as a key contributing factor to the poor relationships that currently exist between the two communities in the North East of Scotland. We agree; and consequently would urge the relevant authorities, without delay, to take the necessary action to address this deficit. The views of representatives from both communities should be taken into account in the planning processes. Additionally, given the current tensions, we suggest that suitably qualified (with a clear knowledge and understanding of the Gypsy/Traveller culture) mediators are engaged to facilitate discussion and debate.

This petition's 'elephant in the room' is the negative - frequently anecdotal evidence based - media coverage of unauthorised encampments. Such reportage serves only to further divide the communities. A more fair and balanced approach would help address the current tensions, and create a better understanding of the needs and aspirations of both communities.

Q2. What are the issues that you face under current legislation?

The key issue we face is a misinterpretation, deliberate or otherwise, of the current guidance and legislation by the relevant authorities and the settled community alike. For the avoidance of further doubt; we recommend that all future guidelines include the following statement from ACPOS (2010):

“There is a general presumption against prosecution for the unauthorised encampment of Gypsy/Travellers relating to trespass offences, although this presumption may be overridden by public interest considerations, dependent upon the circumstances. Enforcement in these circumstances will be a decision for the Duty Senior Officer (not below the rank of Inspector) responsible for the area in question. Discussions with the Procurator Fiscal and Local Authority representatives will normally take place at an early stage before enforcement decisions are made. [...] Failure by a Local Authority to assess or to make provision for the needs of Gypsy/Travellers will serve to reinforce the presumption against prosecution.” [Our emphasis].

With the above in mind we are of the opinion that; open dialogue, facilitated by suitably qualified mediators, fair and balanced reporting and further **provision** rather than further **proscription** is the most appropriate way to reach a positive outcome for both communities.

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