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Scottish Parliament
Public Petitions Committee
Tower 2, T3.40
The Scottish Parliament
Holyrood
EH99 1SP

FAO Franck David

24 January 2010

Dear Sir

Consideration of Petition PE1364

I refer to your letter dated 13 January 2011 regarding Petition PE1364: *Petition by Phyllis McBain calling on the Scottish Parliament to urge the Scottish Government to review all guidelines relating to trespass and encampments for Gypsies and Travellers to ensure their intent is clear and that they are being applied.* The Committee seeks a response with regard to points made by the Equality and Human Rights Commission (PE1364/C) and the action(s) that will be taken by Aberdeenshire Council to address these.

The Equality and Human Rights Commission (EHRC) rightly highlight the tensions between settled communities and some Gypsy/Traveller encampments, evident particularly in the Stonehaven area during the summer of 2010. As pointed out by the EHRC, problems are not experienced with every encampment; the problems experienced last year were related to a particularly large group of Gypsy/Travellers that occupied a number of locations throughout the North East for several months. The public and media's perception was that neither the local authorities nor Grampian Police dealt effectively or appropriately with those encampments.

Aberdeenshire Council agrees with the EHRC that the issue of managing unauthorised encampments should be seen within a wider context and that there are a number of measures that should be taken, nationally and locally, most notably the increase in the provision of accommodation for Gypsy/Travellers. This is seen as being the key issue in the improvement of relations between Gypsy/Travellers and settled communities.

**If you have difficulty reading this document please contact
David Cooper on 01467-628159**

Aberdeenshire Council does not advocate a return to the 'Toleration Policy'. The provision of additional accommodation will enable Aberdeenshire Council to comply with statutory responsibilities in meeting the needs of Gypsy/Travellers. The Craigforth report published in 2009 highlighted the substantial shortfall of pitches throughout the North East and the recent increase in the number of Gypsy/Travellers visiting the North East reinforces the need to provide more accommodation. The provision of accommodation will lead to more effective management of unauthorised encampments. Aberdeenshire Council's and Grampian Police's policies, including the proposed joint protocol between the two agencies, will set out the criteria for assessing and managing encampments. Enforcement action will be proportionate and balanced and not simply based on the availability of alternative accommodation.

Council and Police policies reflect the need for a balanced approach, respecting the rights and responsibilities of all sections of society. The policies also clarify the powers available for dealing with those Gypsy/Travellers and encampments that give rise to problems. Aberdeenshire Council carefully considers the actions it takes and will only take formal enforcement action where fully justified and in accordance with approved policies.

Aberdeenshire Council is working in partnership with Aberdeen City Council to identify land that can be developed as transit sites for Gypsy/Travellers. Both Councils have also identified transit site locations within their Local Development Plans (LDP). In recognition that the sites identified in the LDP will take some years to come through the Planning process. Aberdeenshire Council, in conjunction with Aberdeen City Council, has taken further steps to identify public and private land that could be used as transit sites. A Working Group has also been established in Stonehaven comprising Council, Grampian Police and Community Council members to try and identify suitable locations.

The EHRC indicate that the North East local authorities did not take advantage of Scottish Government funding; it was made clear to the local authorities by the Scottish Government that this funding could only be used for site development if planning permission was in place for a site. Aberdeenshire Council has not been in a position to apply for funding as no suitable transit site locations have yet been identified. An application was submitted to the Scottish Government for funding minor improvement works at the Gypsy/Travellers site at Greenbanks, Banff; the application was not approved.

Legal Definitions and Protection

Aberdeenshire Council shares EHRC's concerns with regard to media coverage and terminology used. At the heart of the issue is the behaviour of some Gypsy/Travellers in some encampments, eg fly-tipping. Policies and procedures are intended to deal with this unacceptable behaviour; the same powers and actions are taken against any perpetrator irrespective of whether or not they are Gypsy/Travellers. As with any member of society Gypsy/Travellers have

responsibilities as well as rights. They have a responsibility to behave in a manner expected of any person.

New enforcement powers to target Gypsy/Travellers are not being sought. Aberdeenshire Council wishes to see a review of the guidance associated with the 'presumption against prosecution for trespass' to enable more effective action to be taken against people who do not behave in an acceptable manner.

Guidance on Unauthorised Encampments

Whilst agreeing with the EHRC that a wholesale review of the guidance is not necessary there are aspects that do require consideration:

- The use and application of the term 'Occupational Traveller' should be clarified.
- The difficulties faced by local authorities and police forces in dealing with *large encampments*, as evidenced in the North East last year, should be examined and new guidance introduced if considered appropriate.
- The guidance related to the presumption against prosecution for trespass should be subject to review. Aberdeenshire Council is of the opinion that there are circumstances when this presumption should be overridden irrespective of availability of accommodation. Although the Council is aware that the Lord Advocate's guidance allows for the presumption to be overridden ACPOS will not advocate such action if there is no alternative accommodation available. In the current circumstances if we again experience large numbers of Gypsy/Travellers then the ability of local authorities in the North East to deal effectively with such large and disruptive groups will be limited.
- The Scottish Government should review and improve the support and guidance available to private landowners.
- Examples of good practice should be included in the Guidance.

Action being taken by Aberdeenshire Council:

- Aberdeenshire Council has provided funding to Grampian Racial Equality Council to enable the recruitment of a Gypsy/Traveller Liaison Officer. The Officer commenced work in October and his primary role is to address the needs of Gypsy/Travellers and to improve relations between them and settled communities.
- The Council is actively participating in the Working Party established by the Minister for Housing to improve relations between Gypsy/Travellers and settled communities in Aberdeenshire and Aberdeen. The Minister intends publishing an Interim Strategy in March detailing short and long terms actions.
- The Council is working with Aberdeen City Council to identify, and subsequently develop, land that can be used by Gypsy/Travellers within the next few months to reduce the impact of Gypsy/Travellers expected to visit the North East.
- The Council is working with the Stonehaven and District Community Council to identify areas of land that have the potential to be developed as transit sites. A number of landowners have been asked if they would be interested in entering into discussions with the Council.

- The Council's policy on the Management of Unauthorised Encampments is currently the subject of a review. A report will be considered by the Council's Policy & Resources Committee in April when it is anticipated that an improved policy will be introduced.
- The Council is to participate in a proposed seminar involving local agencies and representatives of settled communities to specifically address issues arising from unauthorised encampments.
- The Council has written to ACPOS and the Scottish Government seeking a review of certain aspects of their respective guidance.
- Four transit site locations have been identified within the Council's Draft Local Development Plan.

Should you wish clarification of any matter please do not hesitate to contact this office.

Yours faithfully

Ian Robertson
Head of Protective Services and Waste Management