

SCOTTISH GOVERNMENT RESPONSE TO THE QUESTIONS RAISED BY THE PUBLIC PETITIONS COMMITTEE: PETITION PE 1364

Question 1: What is your response to all the points made by the Equality and Human Rights Commission (PE1364/C) and what specific action(s) will you take to address these?

Scottish Government Answer - The Scottish Government (SG) strongly supports the principle of the development of local/regional strategies designed to improve and sustain better community relations between Gypsies/Travellers and settled communities. This approach requires a careful assessment of the local context and good inter agency communication in order that effective and co-ordinated responses can be applied to situations as they arise in a proactive manner.

The SG notes the Commission's view that current guidance relating to "Unauthorised Encampments" is fit for purpose, and provides necessary levels of flexibility, while identifying issues relating to their interpretation at operational levels, and areas where some clarification could be helpful.

In relation to the provision of advice to private landowners, the Scottish Government is of the view that written guidelines cannot account for the experiences of an individual other than to suggest that they seek their own legal advice as and where appropriate.

The SG is actively supporting the development of a local strategy for Aberdeen and Aberdeenshire which will focus on the improvement and development of community relations. This is likely to be achieved through a number of practical measures including helping the affected local authorities to address issues relating to the availability of suitable sites for Gypsies/Travellers, encouraging closer operational liaison and inter-agency working arrangements when dealing with unauthorised encampments in consultation with those groups and individuals likely to be most affected.

SG Ministers have established a Working Group with a remit "To ensure that issues relating to unauthorised Gypsy/Traveller encampments in Aberdeen and Aberdeenshire during 2010 are resolved and/or mitigated to the extent that incidents are significantly reduced, and community relations improved".

This Working Party intends to bring forward a strategy by March 2011 which will outline immediate and longer term action designed to achieve its remit.

Question 2: As suggested by ACPOS (PE1364/D) and the Equality and Human Rights Commission (PE1364/C), will you clarify the definition of what constitutes an 'Occupational Traveller' or will you remove it from relevant guidelines completely to avoid any confusion with Gypsy/Travellers?

Scottish Government Answer: The Scottish Government's guidelines on unauthorised camping say that the term 'Gypsies/Travellers' refers to all those who wish to be defined primarily by their ethnic origins. The term recognises an official awareness that some families call themselves Gypsies, whilst others prefer to refer to themselves as Scottish Travellers.

However, Scotland's largest community of Occupational Travellers, Scottish Showmen or travelling show and fairground families, define themselves as a business community. This community is not and does not claim minority ethnic status, and is therefore distinguishable from Gypsies/Travellers. Occupational Travellers are not covered by SG Guidelines as they are a different community with different accommodation needs. The SG understands that most Occupational Travellers reside on private sites, many of which are in the Glasgow area.

Question 3: What action(s) will you take in relation to bullet point 6 in COSLA's submission (PE1364/I)?

Scottish Government Answer - SG Ministers have established a Working Group with a remit "To ensure that issues relating to unauthorised Gypsy/Traveller encampments in Aberdeen and Aberdeenshire during 2010 are resolved and/or mitigated to the extent that incidents are significantly reduced, and community relations improved".

This Working Group intends to bring forward a strategy by March 2011 which will outline immediate and longer term actions designed to achieve its remit.

The SG does not believe that a comprehensive review of existing Guidelines for Managing Unauthorised Camping is required. However, further consideration will be given to the specific points made in COSLA's response (PE1364/I) along with submissions made by other organisations and local authorities, particularly with a view to sharing good practice.

The SG has worked closely with COSLA to introduce far reaching reforms to the way in which local authorities plan for new housing provision. These reforms have strengthened requirements in relation to provision for Gypsies/Travellers and include requirements for local authorities to:

- assess the housing needs of Gypsies/Travellers as part of their housing need and demand assessment. (set out in new Scottish Government Guidance on Housing Need and Demand assessment published in 2008 and can be accessed at <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/guidance>)
- ensure that the needs of equality groups, including Gypsies/Travellers, are addressed in their local housing strategies (set out in new Scottish Government and COSLA guidance on Local Housing Strategies, published in 2008 and can be accessed at

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/lhs>)

- identify suitable locations for sites for Gypsies/Travellers in their Development Plans where there is evidence of need. (set out in Scottish Planning Policy 3: Planning for homes in 2008 and included in consolidated Scottish Planning Policy, published in 2010) and can be accessed at <http://www.scotland.gov.uk/Publications/2010/02/03132605/0>)

The new framework is in early stages of implementation. Most local authorities are in the process of completing their housing need and demand assessments and are in the early stages of preparing their new local housing strategies. There is a statutory requirement for local authorities to prepare local housing strategies and consult on them. These strategies set out the key housing issues in the local authority area and how these will be addressed.

Question 4: What is your answer to the points raised by the petitioner in her submission (PE1364/K)?

a) Occupational Traveller – refer to the response at Q2 above.

b) Authorised Sites – The provision and enhancement of authorised sites will continue to provide a key part of any strategy to accommodate Gypsies / Travellers. This will generally be achieved by careful assessment of the local context and levels of need by relevant local authorities – see the response to Q3 above.

c) The General Presumption not to Prosecute the Crime of Trespass - The presumption against prosecution relates only to the offence of unauthorised camping (section 3 of the Trespass (Scotland) Act 1865), and although whether a traveller has access to an "authorised" pitch is a factor to consider, it is not the only factor. The presumption against prosecution can be overridden if other public interest considerations justify prosecution, e.g. where an excessive number of vans cause a road safety or public health hazard; or where there is non co-operation relating to alternative provision.

d) The Minority – Having established the Aberdeen/Aberdeenshire Gypsy Traveller Issues Working Party, the Minister for Housing and Communities awaits the finalisation of its "Interim Strategy" which will be available by the end of March 2011. The purpose of this Strategy is to identify and initiate the action required to improve options available to Gypsies/Travellers visiting the area while ensuring the legitimate concerns of the Settled Community are properly understood and addressed.

e) The Debate – The Scottish Government is firmly of the view that the development and implementation of locally agreed strategies involving the Police, Local Authorities and communities of interest, provides the best opportunity for dealing with the issues that arise in relation to unauthorised

encampments. The Scottish Government will continue to monitor existing Guidance and will liaise with relevant parties including CoSLA to ascertain any need to update, clarify, and perhaps refer users of the guidance to positive developments and examples of good practice.

Question 5: How will you address the issue of lack of sites?

Scottish Government Answer - The SG is actively supporting the development of a local strategy for Aberdeen and Aberdeenshire which will embrace a number of practical measures including helping the affected local authorities to address issues relating to the availability of suitable sites for Gypsies/Travellers. The availability of additional SG resources is under active consideration.

There is a statutory requirement for local authorities to prepare local housing strategies and consult on them. These strategies set out the key housing issues in the local authority area and how these will be addressed. We would expect local authorities to involve a wide range of people and community groups in the preparation of their strategies. Therefore there is an opportunity to feed into this process and ensure that housing issues facing Gypsies/Travellers are taken into account. Where there is a clear evidence of need, local authorities are required to identify suitable locations for sites for Gypsies/Travellers in their Development Plans.

Question 6: How many Gypsies and Travellers' encampments were there:

a) 20 years ago?

Scottish Government Answer: In March 1992, a Count of Gypsies/Travellers took place and the findings were published in the report *Counting Travellers in Scotland (1993)*. This recorded 53 unauthorised encampments in use by Gypsies/Travellers in March 1992. The publication also estimated a total of 750 – 800 Gypsy/Traveller households, of which 28% were staying on unauthorised encampments. This count included New Age Travellers, which were not included in the subsequent Twice Yearly Count introduced in July 1998 by the then Scottish Executive, now Scottish Government

b) 10 years ago?

Scottish Government Answer: On the day of the Count in January 2000, the Twice Yearly Count recorded 31 caravans on 8 encampments across Scotland. On the day of the count in July 2000, the Twice Yearly Count recorded 128 caravans on 21 encampments across Scotland.

c) now?

Scottish Government Answer: The last published Count took place in July 2009 as the Twice Yearly Count is currently on hold following a review. The Scottish Government is currently considering the future options for the Count.

- On the day of the Count in January 2009, there were 108 households on 20 encampments in Scotland.
- On the day of the Count in July 2009, there were 229 households on 46 encampments in Scotland.

There were 26 local authorities reporting encampment activity between January 2009 and July 2009. These local authorities were visited 325 times by 1,676 caravans. It is possible that a small number of caravans may have been double counted as they moved between local authority areas.