

**Equality and  
Human Rights  
Commission**

**equalityhumanrights.com**

3<sup>rd</sup> February 2011

Fergus Cochrane  
Public Petitions Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Dear Mr Cochrane,

**RE - PETITION PE 1364, Clarifying guidance on Gypsy/ Traveller encampments.**

I am writing in response to your request for the EHRC's comments on the Petitioners' submission of 14<sup>th</sup> December 2010.

Firstly I will address some of the comments from the Petitioner in her submission. The Commission was asked specifically to comment on the issue of the definition of "Occupational Travellers". As the Commission has responsibility for advising on Equal Opportunities law, and because this is a very complex area of law, a full response was necessary to unpick the issues. We do not agree that the matter was left deliberately unclear by the Scottish Government – then as now the term "Occupational Travellers" has no legal definition.

Secondly, we wish to apologise to the Petitioner if offence was caused by giving an impression that these issues are unique to the North East of Scotland. This was not our intention. The Commission recently published research into the supply and demand of sites across Scotland and we noted both in the research and in our submission that this remains a Scotland wide issue which requires a regional and/ or national response. However, whilst issues of unlawful encampments are seen across Scotland, and particularly this summer on the East Coast, community tensions have been at their worst in the North East.

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The Equality and Human Rights Commission was established by the Equality Act 2006 as the Commission for Equality and Human Rights.

Thirdly, we welcome the recent intervention of the Government in seeking a solution to the problem and the establishment of a working group to propose ways of minimising the nuisance caused by unauthorised encampments on settled communities. The Commission has been asking for such an intervention for several years.

As we stated in our original submission we feel that the guidelines themselves are not the problem, it is the operation of the guidelines and confusion between different bodies about their roles and responsibilities towards the settled and travelling communities that has caused the uncertainty. Both the Police and Local Authorities have acknowledged that mistakes were made and opportunities to act were missed as a result. We have made suggestions in our submission of the technical points where we feel the guidelines could be strengthened – however it is the implementation of the guidelines by individual officers and local government officials which is important. Where encampments are causing problems for the settled community it is reasonable to expect Authorities to act in their support. However, the reality is that unless there is suitable land available elsewhere there is nowhere to evict to.

The Commission's position remains that it is the lack of provision both in the North East and in other parts of Scotland which is the central problem. This shortfall in provision has been evident for many years and was an issue which our predecessor body, the Commission for Racial Equality, highlighted on a number of occasions. In previous years the issues of unlawful encampments have centred on Scottish Gypsy Travellers moving primarily in the summer months. Last year the situation changed and the primary problems were related to Irish and English Travellers who have arrived in much larger numbers than in previous years.

Whilst we agree with the Petitioner that a short term solution must be found, the circumstances which have created the problems last year remain the same. Until local authorities can ensure an appropriate level of provision – through Council sites, through private sites, or on private land with the consent of the landowner – this issue cannot be resolved. The Commission is contributing to the Government working group with both priorities in mind – we need address inconsistencies in the applications of trespass law in the short term but crucially must open

up more land to the community to lawfully occupy both in the immediate and longer term.

In closing I wish to restate our original position which was set out in our submission.

- Where criminal acts have taken place the Police should charge those identifiable
- Eviction should always be explored as an option and where the circumstances are justified (for example the availability of a site in the area), used to relieve pressure on settled communities.
- The matter must be addressed at a regional level.
- The provision of sufficient temporary and permanent sites must be addressed if we are to prevent unauthorised encampment this summer and in the years to come.

Yours sincerely

Chris Oswald  
Head of Policy & Parliamentary Affairs.