



GRAMPIAN
P · O · L · I · C · E

Keeping our communities safe

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Franck David Esq
Assistant Clerk to the
Public Petitions Committee
T3.40
The Scottish Parliament
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Dear Mr David

CONSIDERATION OF PETITION PE1364

I refer to the above petition, which seeks clarification on the guidelines relating to Gypsy/Traveller unauthorised encampments.

I thank you for the opportunity to provide a further response on behalf of Grampian Police, with regard to matters raised by the Equality and Human Rights Commission in respect of this petition, which is attached for your information.

If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely

Colin D Menzies
Assistant Chief Constable
Territorial Operations

**GRAMPIAN POLICE RESPONSE TO QUESTIONS ARISING FROM
PUBLIC PETITIONS COMMITTEE REGARDING PE1364 - PHYLLIS MCBAIN**

The EHRC response to the questions arising from the meeting of the Public Petitions Committee on 26 October 2010 has been considered by Grampian Police. In general terms, the Force broadly agrees with the views of the EHRC in respect of this matter and in particular their observations that the key issue to resolving this matter is not simply a matter of revising policies or guidance documents, but the provision of adequate fixed and temporary sites in the North East of Scotland and elsewhere. In the medium to long term, such provision would make the most effective contribution to improving community relations and minimising the negative stereotyping of the Gypsy/Traveller community by some aspects of the settled community and, in particular, the media.

Grampian Police also note the position expressed by the EHRC with regard to the term 'Occupational Traveller', the manner in which this can be open to misinterpretation and the suggestion that this terminology should be removed from any guidance produced. Furthermore, we also note the recognition of the difficulties that can be caused by interpretation of some aspects of the guidance, such as what constitutes 'public interest'. Again, we agree with the EHRC with regard to these matters. However, we are also of the opinion that there is no requirement to instigate wholesale change to the existing guidance, as specified in our response to the questions raised by the Petitions Committee in October 2010.

In response to the specific points made by the EHRC, we respond as follows:

Land – until sufficient appropriate land is secured for Gypsy/Travellers, the issue of unauthorised encampment will continue to fester.

In 2009, Craigforth Consultancy and Research were commissioned by Aberdeen City, Aberdeenshire and Moray Local Authorities to conduct an assessment of the accommodation needs of Gypsy/Travellers in the Grampian area. Their report recognised the difficulties associated with the management of unauthorised encampments and a number of recommendations were made. In particular, the report highlighted the inadequate provision of authorised sites in the area and recommended that a minimum of 35 pitches were required immediately to help alleviate the problem. To date, no such pitches have been created in the Grampian area.

A further factor which has impacted upon the situation is that sites which were historically used by Gypsy/Travellers in our area have been progressively blocked off. This has led to Gypsy/Travellers establishing encampments at other locations, including some which cause concern to local residents.

The management of unauthorised encampments continues to be a sensitive issue. Some sections of the community believe the majority of encampments cause physical damage and are linked to a rise in crime in the area. Recent analysis conducted by the Force suggests this is only the case with a small minority of

unauthorised encampments. The majority are left in a clean and tidy condition, and are not associated with any increase in crime.

There is a general presumption against prosecution for unauthorised encampment offences, as per guidelines issued by the Lord Advocate. The key issue which serves to reinforce this presumption is the lack of authorised sites throughout the area. The lack of such facilities leaves both the Local Authority and Police in a position where no alternative stopping site can be suggested, thereby hindering the options available to both. Failure to identify such a site leads to a position where the applicability of the relevant legislation is undermined.

Although the Force is limited in the contribution it can make to this particular issue, Grampian Police will continue to provide appropriate support to Local Authority partners in their efforts to resolve the issue of site provision.

Legitimacy – there needs to be acceptance on all sides that Gypsy/travellers, whether indigenous to Scotland or as temporary visitors, are a part of Scottish society and have been for many centuries. They have rights and responsibilities that must be upheld.

Grampian Police recognise the Gypsy/Traveller community in accordance with the definition adopted by the Scottish Government in their 'Guidelines for Managing Unauthorised Camping by Gypsies/Travellers in Scotland' document in 2004. It is held to include Romany Gypsies and Irish, English, Welsh and Scottish Travellers. Our policies in respect of the management of unauthorised encampments are framed on the understanding that Gypsy/Travellers have distinct characteristics and should therefore be regarded as a minority ethnic group.

We have made it clear to our staff that they must take cognisance of their respective responsibilities detailed in the Human Rights Act 1998, the European Convention on Human Rights (Article 8 - The Right to Respect for Private and Family Life, and Article 14 - The Right of Prohibition of Discrimination), and the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. We also acknowledge that the Race Relations (Amendment) Act 2000 places duties on our organisation to eliminate unlawful discrimination, promote equality of opportunity and to promote good relations between persons of different racial groups.

Therefore, when considering our response to an unauthorised encampment, it is imperative that the Force can justify any actions it takes in terms of legality, necessity and proportionality. To achieve this, we must take a balanced view which respects the rights of both the Gypsy/Travellers and the 'settled' communities.

Leadership – central to the resolution is the willingness of local leaders – particularly political leaders – to focus on the solution to the problem and not the symptoms. Gypsy/Traveller communities must also identify and respect leadership within their own communities to enable productive discussions.

The Force has carefully considered the circumstances that were encountered in respect of some unauthorised encampments in our area during 2010, with a view to ascertaining what we could learn from our experiences and that of our communities. In particular, we acknowledge that some of the concerns raised should not be applied generically to the overall Gypsy/traveller community and that the majority of the difficulties encountered related to a small percentage of people within that community.

In recognition of concerns over possible ambiguity or potential lack of clarity of terminology in some key areas, we have withdrawn our current Standard Operating Procedure and replaced it with simplified guidance in the interim. We are developing a new Standard Operating Procedure, which will be subject to a full Equality Impact Assessment to allow for public involvement in the consultation, including representation from both the settled and Gypsy/Traveller communities. Further to this, a template letter has been prepared for the benefit of private land owners who have unauthorised encampments established on their property, which provides them with clear information on the role of the Police in the management of encampments.

We participate in a number of partnerships at both a local and national level with regard to this matter, including the Aberdeenshire Gypsy/Traveller Working Group and the Interagency Gypsy/Traveller Group in the Grampian area. Of most note is our representation on the recently formed Scottish Government Working Group, Chaired by Alex Neil MSP, Minister for Housing and Communities, seeking to find resolution to the issues faced in the North East of Scotland. Membership of the group contains representation from Aberdeen City and Aberdeenshire Councils, EHRC, Article 12 Scotland, MSPs and the Scottish Government.

Although there is a presumption against prosecution for unauthorised encampment offences, this does not apply to other crimes or offences. One of the key learning points taken from our experiences in 2010 was the critical importance of ensuring these other crimes and offences are dealt with effectively, be they committed by or towards the Gypsy/traveller community. Failure to do so can seriously undermine the confidence of both the settled and Gypsy/Traveller communities in the Force and feed an otherwise inaccurate perception of a lack of willingness to take action where necessary.

To support this, we intend to conduct briefings of our staff across the Force, including senior managers, to highlight these learning points, to minimise the concerns of the communities. We have also produced a model detailing the Police role in managing an unauthorised encampment locally, which encourages communication between the Local Policing Team Inspectors and the relevant Local Authority officers, as well as improving internal communication processes. This will assist both the Force and Local Authorities in making decisions in the policing or management of unauthorised encampments.

As part of this, we are also taking steps to improve the gathering of, recording and effective use of intelligence and information about those encampments where criminality is suspected. Although this approach is generic to all encampments, we envisage this process impacting only upon those that create difficulties and whose

actions tend to tarnish the reputation of the wider Gypsy/Traveller community. We have also improved our crime recording system to allow us to identify more readily those instances where a member of the Gypsy/Traveller is either a victim, accused or suspect in a reported crime. This will assist in addressing some of the misconceptions inferring that many Gypsy/Travellers are involved in criminal activity.

Two senior officers from the Force visited Mrs McBain at Fetteresso and heard first hand her account of the experiences of her family and the impact upon them. The associated learning points arising from this incident have also been used to create an exercise based training package on behalf of the ACPOS Gypsy/Traveller Reference Group, which was delivered to a course of senior managers at the Scottish Police College in December 2010. This input was well received and will be repeated at future courses.

To assist with improving community relations, we have tasked our Community Engagement Coordinator to consider a model that the Force and other key partners could use to address some of the concerns of both the settled and Gypsy/Traveller communities. This has been put to our partners for consideration, including the aforementioned Scottish Government Working Group. We are developing a media strategy, which we hope will allow us to work positively with the local media in an effort to minimise the negative reporting typically encountered in the Grampian area.

We have conducted an analysis of the number of incidents created on our command and control system as a result of the presence of unauthorised encampments and identified the key grievances arising, the types of Police response and the relatively small number which resulted in criminal allegations being made. This will allow us to make more informed comment when addressing some of the types of concerns raised by members of the public. The highest percentage of incidents related mainly to the presence of an encampment or annoyance on the part of the caller to its presence.

Conclusion

Grampian Police note the position of the EHRC in terms of a potential return to a 'Toleration Policy'. We endorse the comments of the EHRC and support their position in rejecting any suggestion to return to such a policy.

We also agree with the sentiment expressed by the Commission with regard to Ms McBain's contribution to this debate via the Public Petitions Committee. We hope that this assists to see improvements in terms of improving community relations and it presents an opportunity for all key stakeholders involved in this matter to consider how they can positively contribute to this.

Unfortunately, it appears there is currently a 'vicious circle' in terms of unauthorised encampments and the impact they have on public attitudes to attempts by the Local Authorities to establish authorised sites. This situation is likely to exist until the debate moves on and some authorised sites are created to meet the needs of the Gypsy/Traveller community.