

PE1364/AA

The National Guidance is solely the responsibility of the Scottish Government. No public body acts independently of this Guidance. It is long overdue for the Scottish Government to take responsibility and live up to their duty to provide a fair and balanced approach for all stakeholders involved with unauthorised sites.

The most recent response highlights the refusal of the Scottish Government to deal directly with the questions being asked of it; Private Landowners yet again have been ignored.

However the Scottish Government is offering the following:-

“There is no current intention to bring new legislation before the Scottish Parliament. However, the Scottish Government will progress a review of the guidelines for Managing Unauthorised Camping this year.”

So, I ask this Petitions Committee to hold the Scottish Government to this. How they intend to do this by end of this year is either over confident or a sign of a brush over review.

As the Scottish Government has not given this Petitions Committee any terms of reference upon which to base this review, I would urge the Committee to undertake that responsibility and in so doing show the Scottish Government the leadership they clearly lack.

Moving this Petition to another committee would only delay the review on offer.

Possible terms of reference might be as follows:-

- 1. Offer public consultation for input to the proposed terms of reference and a deadline for completion.**
- 2. Encouragement of cross party involvement and all stakeholders in the review process.**
- 3. A review of guidance must also consider possible amendments to legislation.**
- 4. There are several points within the General Presumption not to prosecute Gypsies/Travellers for the crime of trespass (General Presumption) which require to be addressed.**
 - Parity of right issue within the General Presumption.
 - Clear and unambiguous definitions as to when the General Presumption can be removed regardless of the availability of authorised sites.
 - Is current legislation able to deal with known types of incidents, crimes and disturbances which occur in and around such sites by any offenders or groups of offenders? Group conduct and individual accountability in particular should be reviewed.
 - Is the General Presumption in itself a safe policy for the Scottish Government to be continuing to adopt? A positive discrimination policy will always have

someone negatively discriminated against, in this case Private and Public Landowners. The ambition of this Guidance was to reduce discrimination not to increase it, so can it ever be classed as a safe policy?

5. Identify all stakeholders in this issue.

- Ask that all stakeholders are treated fairly and equally; current guidance has a tendency to only express the human rights of the Gypsies/Travellers and this practice should cease.
- This review is an ideal opportunity to encourage moderate representation for the various stakeholders, an issue which has been highlighted previously during the process of this petition.

6. Setting of minimum standards and appropriate legislation to enforce these standards.

The two main aims of current guidance are to aid Gypsies/Travellers to travel in Scotland and to standardise the approach throughout Scotland on the management of unauthorised sites.

The General Presumption was created to aid Gypsies/Travellers to travel which, as previously expressed in the Petition, is an honourable aim, however it is sufficiently flawed to have dishonourable consequences. In certain circumstances it has been wholly inappropriate that the General Presumption has not been overridden. The Scottish Government has to be prepared to state when this protection is not appropriate; failure to do so results in the accusation of double standards and favouritism.

The Scottish Government can no longer have each local authority setting the minimum standards on an unauthorised site. This has to be done by the Scottish Government and then compared to legislation to ensure that the tools and mechanisms are in place for public bodies to enforce.

Conclusion

Review of the National Guidance has always been my aim; following a year of input and debate regarding the management of unauthorised sites I still see the need for this.

Justification for “doing the right thing the wrong way” is no longer acceptable and this Petitions Committee now has the opportunity to start the process of having new National Guidance which is worthwhile and considers all stakeholders in a fair and balanced way.