

PE1364/CC

Petitioner Letter of 9 February 2012

Einstein said "Learn from yesterday, live for today, hope for tomorrow. The most important thing is not to stop questioning".

So I question this:

Why would a review by the Scottish Government be of any value when in their most recent response they inform this Petition Committee that its core will be based on the 2011 review of guidance by ACPOS?

Every public body, be it local or national, police or local authority, has based their current guidance on the 2004 national guidance of the Scottish Government.

The Scottish Government now freely acknowledge that their guidance is out of date and is now under review. Therefore each and every other guidance on this issue is also out of date and cannot and should not be used in any form in this current review.

At this stage of this petition it would be reasonable to assume that it would be public knowledge as to the exact process of the current review, what its aims and ambitions are and how it is to be achieved.

So I repeat my question from my last response: What are the terms of reference of this current review?

Until such times as the Scottish Government opens this review to public debate, it is still difficult to understand the Scottish Government's intentions let alone have any confidence in its merits.

During the process of this petition I have repeatedly highlighted the concerns of the General Presumption not to prosecute the crime of trespass for Gypsy/Travellers only.

General Presumption

The main aim of the General Presumption is to allow Gypsy/Travellers to travel.

If it is to be used as a tool to aid Gypsy/Travellers then it has to be applied for the benefit of all. It has to take into account legitimate concerns.

- The General Presumption has no limits:
 - To size of site
 - Length of stay
 - No land is exempt regarding legitimate use
 - If inappropriate conduct occurs this is ignored.
- The justification given for upholding the General Presumption is lack of authorised sites.

- It is disappointing that this excuse is still being accepted, as these guidelines have now been in place for over seven years.
- The realisation of this ambition of having a sufficient number of sites is still years away.
- The General Presumption alone cannot deal with such crimes as fly-tipping, urinating and defecating etc.
- It is claimed that these crimes can be dealt with by current legislation:
 - This is a hollow claim.
 - Group action cannot be addressed by current legislation, as it requires individual accountability.

The General Presumption has failed in its ambition to aid travel.

- It has not stopped evictions.
- It has only moved evictions to civil jurisdiction.
- It has changed the role of the police from participation to a monitoring role.
- It creates more problems than it solves.
- It completely disregards landowners, both public and private.

My question is, how productive can a review of national guidance alone be without also taking into account the shortfalls of both the General Presumption and current legislation?

Why after seven years can the police not show real evidence of a successful strategy to deal with crimes in and around such sites?

I am not convinced of the progress of this review and in my opinion all that is being offered here is a lack of understanding of yesterday's mistakes, a public relations exercise for today and the hope of more of the same for tomorrow and that is simply not good enough.

So I return to Einstein for inspiration yet again - he said, "We can't solve problems by using the same kind of thinking we used when we created them".

The most productive change to move forward would be to link the General Presumption to conduct.

How can this be done?

- Remove the stigma of unauthorised encampments.
 - Local authorities should inspect a new site within 24 hours.
 - If the site lives up to minimum standards set by the Scottish Government, a temporary licence may be granted for a set period of time.

- This is the point when the General Presumption may be granted.

The advantages of this are:

- Completely change the media story.
 - Instead of a headline, “Day two of unauthorised encampment”, you now have the headline “Temporary licence granted”.
- It enables legitimate complaint to be recognised and dealt with appropriately.
- It enables prejudiced complaint to be recognised and dealt with appropriately.

Set minimum standards.

The minimum standards should be fair, balanced and reasonable, as to do anything less would be as destructive to the future as the General Presumption has been to the past.

One of those minimum standards must be that it is the responsibility of Gypsy/Travellers to provide toilet facilities; this is one of the most basic requirements and easily achieved.

A temporary licence can still be offered to a private landowner.

- The local authority takes on the management of the site and all of the responsibility this entails.
- The Local Authority have a contract between the landowner and themselves for a set period of time.
- The Local Authority returns the site to the landowner in the same state as when it was taken over.

The private landowner has been given an alternative solution rather than the current advice of “seek your own legal advice”.

The only minimum standards which exist today are produced by each Local Authority.

- These take the form of leaflets regarding a voluntary code of practice.
- Each Local Authority writes their own versions.
- These documents have no legal standing and cannot be used to address the issue of inappropriate conduct should this occur.

If anybody is concerned about setting minimum standards, an example of where these are widely used in our everyday living is when driving a car.

In order to legally drive a car you must have: a valid Driving Licence, Road Tax, Motor Insurance and an M.O.T.

As soon as you turn the car ignition, these minimum standards increase tenfold, such as speed limits, don't drink and drive etc.

The minimum standards are there for one reason: to improve road safety in general.

If an individual were to breach any of these minimum standards applied to driving a car, they have full knowledge of the risk they take and the legal consequences of their actions.

This petition was written from the personally experience of my own family when an unauthorised site was set up on our land and we were given no support, morally, finically or physically to deal its consequences.

The lack of transparency of discussions and stockholder participation in this review gives me no confidence in its outcome.

I would hope that this petitions committee would now have the confidence to make its own recommendation to the current review anything less would be a missed opportunity.