

## PE1364/EE

Response to Scottish Government response PE1364DD from Phyllis McBain.

It should never be forgotten what an unofficial site is: it is a group of Gypsy/Travellers who have set up residence on someone else's property. The aims and ambitions of The Guidance can be achieved when unofficial sites are effectively managed regardless of whether they are on public or private land.

The aims and ambitions of the original National Guidance of 2004 are sound and there is no reason to change these:

- To aid Gypsy/Travellers to travel.
- To remove regional differences on the management of unofficial sites.
- To remove tensions between communities.
- To create the "Buy In" to official sites.

The signs that we should have started seeing are:-

- Fewer evictions.
- Unofficial sites being able to remain in situ a little longer and the start of voluntary moving on rather than civil evictions taking place.
- The increase of official sites.
- Successful strategies by Police and Local Authorities working together:
  - Seeing the signs of a „bad site“ being managed into a „good site“.
  - Sadly one of the things which will be a by-product of this is successful prosecutions for crimes regardless of which stakeholder group is responsible.
- Communities coming together and showing respect to each other.

There is no focus in this response that remotely shows a new approach to get this guidance back on track. The long term approach expressed by the Scottish Government is why the signs of progress will only be limiting.

The Scottish Government refuses to accept that the guidance is only one tool to achieve these ambitions. It is a combination of three areas working together and not against each other that will lead to success:-

- The national guidance requires to lead to all stakeholders' participation.
- Legislation working in conjunction with the guidance to enable public bodies to manage effectively.
- The General Presumption requires having limits attached to it.

It is apparent that the Scottish Government is some way from actually starting a review of the national guidance which can be seen in the tentative key points offered for their term of reference.

### **Five key points**

- 1) **“Information contained in the Guidance is quite historical, including reference to legislation and other guidance that is either out of date, no longer relevant or has been superseded.”**
  - a) The Scottish Government later on in this response says **“What is the role of the national guidance and is a rewrite of this the most appropriate route for addressing the issue of unauthorised encampments?”** The combination of these statements, by acknowledging the flaws within the guidance and by questioning a review of the guidance, without offering an alternative, is hardly constructive at this stage.
- 2) **“Some of the presumptions of “Expected behaviour on Encampments” require examination, in order to avoid any inference that negative behaviour of any sort will automatically occur.”**
  - a) Negative behaviour may not, but can, occur and by any of the stakeholders and should never be disregarded.
  - b) “Expected behaviour in or around an unofficial site” is a far better term than my suggestion of a “charter of conduct”.
- 3) **“The tone of the document requires review.”**
  - a) Key point two suggests that lesson has not been learned, as it focussed on conduct inside an unofficial site not around such a site.
  - b) This statement lacks clarity in defining tone.
- 4) **“Requirement to provide clarification on the responsibilities of the relevant public authorities in relation to the management of unauthorised encampments”**
  - a) Responsibilities are clear: the lead agency is the Local Authority supported by the Police.
  - b) It is the tools of management which will enable local authorities to be effective managers. It is legislation and changes to the no limit general presumption which will allow Police to support Local Authorities.
- 5) **“This presents a further opportunity to highlight that the long term, sustainable solution to the issues arising from the establishment of unauthorised encampments is the creation of adequate halting site provision across Scotland. Creation of such sites would strengthen the applicability of the relevant legislation and enhance the options available to Police Forces assisting the Local Authorities.”**
  - a) Lack of sites must stop being used as an excuse for ineffective management.

With reference to the two clear actions concluded from the North East of Scotland meeting:

Point One - Progress of Strategy and Action Plan.

There will be limited value from this report, as it is an attempt to make progress under the restraints of the 2004 national guidance the credibility of which is currently in question.

Point Two - National Working Group to discuss the role of the guidance.

This title surprises me, as it shows how little confidence the Scottish Government has in the original guidance. My interpretation of the role of the guidance is expressed at the beginning of this response. It is not the aims which are wrong; it is the lack of effective tools and mechanisms which Local Authorities and the Police can use to work constructively together.

I do hope that it is an oversight that the list of participants to the national working party did not include Gypsy/Travellers; a silly, basic mistake like this hardly breeds confidence.

I am disappointed in the standard of answer given by the Scottish Government to the following two legitimate concerns raised in my last response. I have copied and pasted directly from the Scottish Government response two questions and the Scottish Government answers; this type of deflecting and avoidance is simply not good enough.

**“How productive can a review of national guidance alone be without also taking into account the shortfalls of both General Presumption and current legislation?”**

ACPOS reviewed their guidance on the management of unauthorised encampments in 2011; this provides advice to officers with regard to their responsibilities. The general presumption against prosecution for unauthorised encampments remains, except in specified circumstances, but the police will continue to respond to and investigate other reported crimes in the normal way.

- This reviewed guidance offers nothing new and the Scottish Government is defecting from the role it has in addressing the no limits of the General Presumption and applicability of 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?**

Any specific concerns about policing of particular encampments should be raised with the relevant Chief Constable.”

- The question has to be why the Scottish Government is not asking for these answers and more to the point don’t know the answers?

Conclusion.

This response from the Scottish Government is confusing, unfocussed and lacks a sense of urgency.

Review of guidance alone will archive very little and this is still not being addressed.

No offers of how to deal with legislation which is not applicable until such times as official sites appear in sufficient numbers.

Excuses to archive the long terms goals may have been acceptable in the early stages of these guidance 2005, 2006, and at a push 2007 as teething problems were addressed.

We are in 2012 so how long terms are these goals and the lack of achievement towards these can no longer be excused.

The avoidance of direct comment on the temporary licence suggestion, which is dependent upon changes to the General Presumption, is disappointing. The Scottish Government has again stated that the General Presumption remains unchanged but no alternative has been offered.

I have accepted my invitation to attend the interim meeting of the Working Group but have very little information on this meeting to make any constructive comment.