

## PE1364/X

The response from The Scottish Government (SG) is full of polite words with no substance and certainly lacks noteworthy contributions to a long term, lasting solution. No one can say that there are easy answers to this issue but there are answers if someone is prepared to grab hold of this issue and work to find them - the SG has yet to show that desire or leadership.

1. **The Core Issue** of this petition is the failure of the national guidelines to achieve their aims and ambitions and provide the tools with which local authorities and the police can combine to actually manage unauthorised sites in an appropriate manner on public or private land. These national guidelines are only fit for purpose when sufficient authorised sites are in place. It matters not how many promises the SG makes regarding the future availability of authorised sites, the current reality is that they do not exist in sufficient numbers at the present time to enable the guidelines to work in a fair and balanced manner towards all stakeholders.
2. **Refresh and Update of National Guidance** is what is being proposed by the SG to address failed guidelines and is nothing more than the same public relations exercise as was recently completed by Aberdeenshire Council and Grampian Police which achieved nothing to address the concerns raised within this petition. The petitions committee should be reminded that Aberdeenshire Council has publicly stated it would like a full review of national guidelines and has publically acknowledged that they have no scope in which to aid private landowners under current guidance.
3. **General Presumption** not to prosecute the crime of trespass for Gypsy/Traveller only (General Presumption). The SG recognises that it would be helpful to provide further clarification in relation to the general presumption and interpretation of the national guidance in order to support and inform the implementation of local operational strategies. Again no substance which can be commented on with any real conviction, as I have no idea what the SG is offering. If the SG is still saying in this response that the police can act once sufficient authorised sites are in place, then the SG continues to fail to address the short term issue that currently the police cannot act due to insufficient sites. Lack of official sites is no excuse for the SG to not urgently deal with the lack of safeguards for private and public landowners at the present time, a responsibility which the SG is still reluctant to accept.
4. **Finding more Authorised sites** will not be achieved by money. £1,000,000 a year. An eight pitch stop-over site costs £50,000, without taking into account the indirect costs of going through planning process and public consultations. 20 sites at basic cost throughout Scotland is hardly a sum which will fulfil requirements. The SG would be far better to boast about how it is aiding the "Buy In" and stop deflecting with political answers and money promises. Just how much of the past years' allocations were even used? Could it possibly be because the "buy In" has failed along with the national guidelines?
5. **Consultation** with all stakeholders is essential. Ref. paragraphs 2 & 3 of the latest response by the SG: even within paragraph 2 the SG loses focus from landowners to the Gypsy/Traveller. Paragraph 3 highlights the diversity of the Gypsy/Traveller communities which is correct; however the SG failed to show this same consideration towards the diversity of landowners and the dual difficulties both the SG and local authorities have in offering full consultation to all stakeholders.
  - a. A recent working party set up by the SG did not include private landowners. The claim that landowners are stakeholders in this issue has to date not been backed up by the action of the SG.

6. **Online consultation** is the least effective way to address the concerns of the national guidance and it will be yet another public relations exercise until the SG opens the debate up with practical solutions rather than political wish-lists which is so far what has been offered. To have a public consultation you have to offer something to discuss and a refresh and update of current guidance is only offering regurgitated guidance which has been proven to fail over the past seven years.

What is missing from the SG response is the most telling.

#### 1. **Constructive contributions**

- a. Long overdue is a constructive analysis of unauthorised sites; the excuse that “we cannot comment on individual sites” is just that, an excuse. The SG requires to state publically that this site worked because of a, b, and c and that one failed because of x, y and z. Once they do this, then they have a solid foundation from which to change guidance.
  - b. The SG cannot continue to defer matters until sufficient authorised sites are in place.
2. **Standards which mean something.** The time is now for the SG to be bold and fair and balanced and say to the Gypsy/Travellers that the support for them to travel throughout Scotland is dependent on fair and balanced standards which the SG set, not each local authority. The SG must then put in place the tools to allow these standards to be enforced and short term aid to achieve them. The codes of good practice written by each local authority are useless documents because they have no legal backing with any tools to enforce and the guidance from the SG also allows cost consideration to come into play: Aberdeenshire Council do not ask Gypsy/Travellers for payment for toilet provision, as this is more cost effective than following up payments.
  3. **Flexibility.** It is all fair and well to have guidelines but no guideline can cope with every possible situation which occurs and the SG has to show trust towards local authorities and local police forces to have the confidence to allow them to act in an appropriate manner in unusual circumstances and not be hand tied by guidance which has no flexibility to allow common sense to prevail.
  4. **Understanding of the difference when a site is set up on private land and public land.** No one reading the current guidance can fail to be struck by the fact that it is a document which is for the use of local authorities when dealing with a site on public land. No due care and attention has been shown to what happens on private land and the crash consequences which faces a private landowner who is caught in the trap of the general presumption. How can the SG expect a private individual to manage an unauthorised site which they do not even want on their land and in our family’s case we were advised by the police to stay off our own land for our own safety? Just what is the SG expecting my 76 year old mother to have done to effectively manage that site on her land? What the SG is hoping for is that a private individual will go to civil court and then keep quiet, not highlighting to the SG just how unreasonable their guidance is.
  5. **Understanding of the issues and their consequences for all stakeholders** within this very difficult issue. There are conflicting rights and expectations but these will never be addressed until guidance states clearly what each stakeholder’s rights and expectations are; in this way fairer and more balanced guidance can be written.
    - a. It will stop what has occurred in the recent new guidance by Grampian Police whereby they now write a letter to private landowners and express the rights of Gypsy/Travellers to trespass on the landowner’s land and then tell the landowner to contact legal advice

to have their rights explained to them. That is the tone of current national guidelines and it is the responsibility of the SG to change that tone.

## **Conclusion**

My conclusion from this response is that the national guidelines are not fit for purpose today and require a full review. The SG contribution to this petition has no practical substance and is certainly lacking in any noteworthy contributions to a long term lasting solution.

Not one thing has been brought to the petition by the SG which has given me confidence that the main aim of this petition has been addressed. No one should go through what my family experienced last year due to poorly written guidelines.

The SG still appears to believe that advice to landowners, public or private, to seek legal advice is all they can offer, and all will be resolved when they magically produce sufficient authorised sites.

Incidentally the second sentence of the SG's own guidelines states that even when authorised sites are in place in sufficient numbers, unauthorised sites will still occur. If this is true, appropriate guidance which is fair and balanced towards all stakeholders will always be required in order to manage such sites.

The SG has not shown the desired leadership to find a long term solution, so I urge this petitions committee to show the leadership this issue deserves and point this petition in the right direction to find the long term solution we all desire.

The short term consequence of the general presumption needs urgent attention and may require to be addressed separately.