SUBMISSION FROM EQUALITY & HUMAN RIGHTS COMMISSION (SCOTLAND)

1. INTRODUCTION

The Equality & Human Rights Commission in Scotland (EHRC) welcomes the current review of Gypsy /Traveller accommodation needs being conducted by the Equal Opportunities Committee of the Scottish Parliament. The EHRC, and its predecessor the Commission for Racial Equality, has submitted evidence to the two previous inquiries and has published research into the accommodation needs of the community, specifically into issues of the supply and demand of permanent and temporary sites across Scotland. The EHRC has also investigated a number of complaints of discrimination by members of the community relating to accommodation.

Scottish Gypsy Travellers, Gypsies, Travellers and Roma are recognised as being protected by the Equality Act 2010 as a group sharing a "protected characteristic". As such, they have the right to challenge unlawful discrimination under the Act, as individuals. Public Authorities are also bound by the General Duty of the Equality Act to pay due regard to the need to

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited under the Act
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it
- Foster good relations between people who share a relevant protected characteristic and those who do not share it

in respect of Gypsy/ Travellers. In relation to the second aim of the duty "due regard" involves in particular:

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low

Discussion

The EHRC does not propose to repeat the evidence of discrimination and negative attitudes towards Gypsy/ Travellers in Scotland. That evidence is well documented and widely available. It provides ample information for Public Authorities to prioritise Gypsy Travellers for action under the advancement of equality of opportunity requirement.

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1 Research report 44: Assessing local authorities’ progress in meeting the accommodation needs of Gypsy and Traveller communities in Scotland - Final Report (Equality and Human Rights Commission 2009)
The EHRCs primary concern in relation to Gypsy / Travellers in Scotland relates to fostering good community relations. The EHRC believes that the continued absence of adequate and appropriate sites for the community - in public or private ownership, either permanent or seasonal, residential or transit - remains the single biggest barrier to good community relations in Scotland.

Research published by the EHRC in 2009 adds to a body evidence that suggests that only a minority of Local Authorities have an accurate projection of supply and demand for sites on which to base their provision. The resultant lack of adequate and appropriate provision forces many Gypsy / Travellers to pull to on roadside sites, or on to public or private land which does not meet their needs and causes considerable tension with the settled community. This is avoidable, but will take planning and resourcing to resolve.

The EHRC know that these tensions are not solely created in the settled community or exacerbated only by a lack of official or private sites. Within the Gypsy/ Travellers community there is a small minority who choose to pull on to public or private land with no consideration for the owners or users of this land. There have been a number of high profile examples where Gypsy /Travellers have behaved unlawfully in relation to the refuse they have left and the disruption they have caused. This is clearly unacceptable and the resulting perception that Gypsy/ Travellers are somehow "outside the law" only serves to further fuel tensions. However the EHRC believes that these actions of the few have been taken by some sections of the settled community and media as being representative of the behaviour of all Gypsy/ Travellers, leading to a spiral of negative relations which at times has had the potential to spill over into series public disorder. Whilst we recognise that policing of such unlawful encampments, fly tipping and refuse, is problematic, it needs to be seen to be being addressed. For the majority of the community the reality is that there are too few permanent, seasonal or temporary sites in public or private hands to enable the community to exercise their legitimate right to travel for economic and social reasons. For many there is simply no alternative but to pull in to locations which are far from desirable.

To be able to resolve this problem, the EHRC believes that there are a number of interconnected issues which need to be addressed in the interests of good community relations. These issues are summarised below.

Infrastructure

We recognise that many Local Authorities, particularly in the NE of Scotland, have struggled to secure sites. The EHRC does not believe that the responsibility for locating sites should rest at a Local Authority level. Rather, a system of regional approaches to site provision needs to be adopted which is sensitive to the traditional travelling patterns of the community.

However, we believe that the operation of the Concordat between central and local government is a barrier to this, as it prevents the Governments’ intervention at a regional level to require action, not just encourage it.
Resourcing

Since 2011 the Scottish Government has rolled up the specific funding available nationally for site establishment and improvement into the general grant aid available to Local Authorities. Although we note with disappointment that not a single new site was established as a result of this fund, we feel that it is even more unlikely that the new approach will result in the creation of any new sites in Scotland, especially under the current economic conditions.

This is compounded by a lack of prescription in the Local Housing Strategy assessment process, which does not require Local Authorities to identify suitable sites for Gypsy / Travellers, only encourages them to do so through guidance.  

Therefore we believe there is neither an incentive nor a disincentive for Local Authorities to resolve the issue.

Public & Media Attitudes

Attitudes to Gypsy / Travellers in Scotland are undoubtedly negative and examples of behaviour at unlawful encampments are claimed by opponents of planning permission for sites, to be typical of the behaviour of the community as a whole. We feel that spurious reasons can be deployed to prevent applications for proposed sites from gaining planning permission.

Sections of the media have, we believe, also acted in a highly prejudicial manner in their reporting of unlawful encampments and proposals for planning permission. Sections of the print media in particular have been virulent in their criticism of attempts to secure private or public sites, feeding cycles of negative attitudes. These attitudes are mirrored in blogs which incite hatred. If the legitimate reporting of bad behaviour amongst the minority of Gypsy /Travellers encampments were balanced by positive reporting of the benefits of planned provision, this may be acceptable, but in our monitoring of media reporting of Gypsy/ Traveller issues, positive reporting is a rarity.

Leadership

At the crux of the issue is leadership. By leadership we mean that which operates at a local level in community councils and residents associations, within the Gypsy/ Traveller community itself, amongst elected members, MSPs and MPs.

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2 “In accordance with the 2001 Housing (Scotland) Act the local housing strategy must explain how equality issues have been considered and how their statutory public sector equality duties have been met”. Data and evidence about the needs of different communities and household groups will have been collected as part of the local authority’s housing need and demand assessment and will inform the preparation of the local housing strategy. Equalities issues should be embedded throughout the local housing strategy” Scottish Government 2008

3 See “Gypsy Travellers in Scotland - A resource for the media” EHRC 2009
Whilst there are some excellent examples of strong leadership - and we would particularly commend the intervention of Alex Neil during his tenure as Communities Minster and Nigel Don MSP in his constituency role - regrettably there are too many examples of individuals with leadership roles focussing on short term self interest. We know that many elected members view supporting Gypsy / Travellers sites as “political suicide”, but this short termism only perpetuates the current situation.

Conclusion

Every summer Scottish Local Authorities become locked in series of expensive, high profile stand offs between a minority of Gypsy Travellers, a minority of the settled community, and elements of the media. This wastes valuable resources, distracts people from focussing on solutions and leads to heightened community tensions. This is not inevitable, but is a consequence of the limited, short term approach local and national bodies have approached the issue. There are examples across Scotland of positive approaches taken by Local Authorities where unlawful encampments are rare and provision is relatively good.

The EHRC has repeatedly set out proposals for breaking this log jam⁴. Gypsy/Travellers have a legitimate right to travel. Local residents have a legitimate right to expect their land to be treated with respect and to be protected. It is possible to achieve this balance but it will require investment in a regional infrastructure, in leadership, and in dialogue to do so.

Chris Oswald,
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⁴ See for example the EHRC response to “PE 1364 regarding Scottish Gypsy Travellers”