



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EQUAL OPPORTUNITIES COMMITTEE

Thursday 6 December 2012

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EQUAL OPPORTUNITIES COMMITTEE
24th Meeting 2012, Session 4

CONVENER

*Mary Fee (West Scotland) (Lab)

DEPUTY CONVENER

*Marco Biagi (Edinburgh Central) (SNP)

COMMITTEE MEMBERS

*John Finnie (Highlands and Islands) (Ind)

Annabel Goldie (West Scotland) (Con)

*John Mason (Glasgow Shettleston) (SNP)

*Siobhan McMahon (Central Scotland) (Lab)

*Dennis Robertson (Aberdeenshire West) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Euan Page (Equality and Human Rights Commission)

Professor Kay Hampton (Scottish Human Rights Commission)

Alex Johnstone (North East Scotland) (Con) (Committee Substitute)

Duncan Wilson (Scottish Human Rights Commission)

CLERK TO THE COMMITTEE

Douglas Thornton

LOCATION

Committee Room 4

Scottish Parliament

Equal Opportunities Committee

Thursday 6 December 2012

[The Convener *opened the meeting at 09:11*]

Where Gypsy Travellers Live

The Convener (Mary Fee): Good morning, everyone, and welcome to the Equal Opportunities Committee's 24th meeting in 2012. I ask everyone with electronic devices to set them to flight mode or switch them off completely.

Around the table we are joined by the clerking and research team, official reporters and broadcasting services, and we are supported by security. I welcome the observers at the rear of the room. My name is Mary Fee and I am the convener of the committee.

Marco Biagi (Edinburgh Central) (SNP): I am the deputy convener of the committee.

Dennis Robertson (Aberdeenshire West) (SNP): I am the MSP for Aberdeenshire West.

John Finnie (Highlands and Islands) (Ind): I am a Highlands and Islands MSP. I declare that the register of interests shows that I am a member of Amnesty International.

Siobhan McMahon (Central Scotland) (Lab): I am an MSP for Central Scotland.

John Mason (Glasgow Shettleston) (SNP): I am the MSP for Glasgow Shettleston.

Alex Johnstone (North East Scotland) (Con): I am an MSP for North East Scotland and a substitute member of the committee.

The Convener: Agenda item 1 is an evidence session on where Gypsy Travellers live with representatives from organisations that have carried out research into Gypsy Travellers' accommodation needs. I welcome our witnesses and ask them to introduce themselves.

Professor Kay Hampton (Scottish Human Rights Commission): I am a commissioner with the Scottish Human Rights Commission.

Duncan Wilson (Scottish Human Rights Commission): I am head of strategy and legal at the SHRC.

Euan Page (Equality and Human Rights Commission): I am government affairs manager for the Equality and Human Rights Commission in Scotland.

The Convener: Thank you. The committee has a number of questions for the panel and we will start with Siobhan McMahon.

Siobhan McMahon: We thought that it would be helpful and useful to find out whether witnesses had visited a Gypsy Traveller site and, if they had, what their impression of that site was. We have recently visited sites across Scotland and seen for ourselves the difficulties that Gypsy Travellers live with. Has anyone visited a site?

Professor Hampton: I have not visited any Gypsy Traveller sites recently, but I have visited an urban settlement in Govanhill where approximately 3,000 Roma people live. The conditions there are quite dire. Most of the people are in privately rented accommodation and, although they pay taxes and very high rents, they suffer appalling conditions of overcrowding and so on. That is the only site that I have recently visited.

Duncan Wilson: In the course of undertaking a major research project to map the state of human rights in Scotland, in addition to looking at secondary sources our research officer undertook focus groups and in-depth individual interviews. That research included Gypsy Travellers and involved visits to their communities. The evidence that we recorded is in our report, which we published at the end of October, and indicates, as other research has, a lack of sanitation and poor living conditions. I know that members of the committee will have seen that during site visits.

Euan Page: I am here in the place of my colleague Chris Oswald, the commission's policy lead on Gypsy Traveller issues, who cannot be here today due to a bereavement. He has extensive experience of the issue and has gone on site visits. I have not visited any Gypsy Traveller sites.

09:15

Siobhan McMahon: Professor Hampton, you said that you visited a site where 3,000 Roma people live. Is that correct?

Professor Hampton: Yes. There are approximately 3,000 around that area in the west.

Siobhan McMahon: That is quite a substantial number. The site that I visited was quite small. Could you describe what you saw there? You said that it was dire. What did you mean by that?

Professor Hampton: I did not go there to study the Roma situation; I went there to do another piece of research. I should put on the table the fact that that research was not done on behalf of the Scottish Human Rights Commission; it was a piece of research that I did on the Muslim community. In the course of that research, a number of respondents talked about the situation

that they lived in and about the prejudice that they faced in that area. It is no exaggeration to say that there are large families crammed into accommodation that is for four or five people. They have no other option. They have large families and want to live near them, and their only option is to live in a tiny little flat.

Dennis Robertson: It would appear that the story is much the same throughout Scotland. However, there are parts of Scotland where things seem to be slightly worse. A 2009 study by Aberdeen City Council, Aberdeenshire Council and Moray Council suggested that the area should have an additional 35 pitches of different sizes for Gypsy Travellers—some transient sites, some static, and some that are a combination of the two. My understanding is that, at the moment, there is one site in Aberdeen, at Clinterty. What dialogue have you had with the councils with regard to the lack of sites for Gypsy Travellers?

Euan Page: The commission is well aware that there are particular seasonal problems that affect Aberdeenshire and has had dialogue with local authorities in that area and with a number of MSPs and ministers.

As you rightly say, there is a clear mismatch between need, in terms of quality and quantity, and what is provided. You pick up on a secondary issue that is important. It is encouraging that those three councils considered the issue jointly. That, in itself, goes some way towards recognising the geographical and seasonal nature of Gypsy Traveller communities in the north-east, with movements happening more in the summer than the winter.

We were encouraged by the intervention of Alex Neil, in his role in the previous session of Parliament as Minister for Housing and Communities, and by the leadership that has been shown by some MSPs in the north-east to try to address the issue in a measured and holistic manner by not only considering what individual local authorities are or are not doing in their geographical areas but taking a more cross-jurisdiction approach.

We recognise that the north-east remains a particular flashpoint and feel that that is unlikely to change any time soon unless the wider questions around political leadership, media portrayal of Gypsy Travellers and disputes over land, stopping places and settlements are addressed, and authorities individually use the regulatory tools that are available to them through the statutory equality duties and the Human Rights Act 1998, and collectively make sure that they are not falling into the trap of silo working by setting outcomes through the community planning process that do not take account of the fact that Gypsy Traveller

communities move across local authority boundaries seasonally.

Professor Hampton: A lot of work has been done by our partners at the Equality and Human Rights Commission and Amnesty International. The committee probably has copies of the submission that we made in July on the back of more current scrutiny of information about Gypsy Traveller communities.

Our publication "Getting it Right? Human Rights in Scotland" contains a chapter that focuses on where Gypsy Traveller communities live, which shows that there is not just one type of accommodation that suits all. The pattern of movement and the lifestyle are not confined to individual local authorities. We found that there is no consistency across Scotland, and that comes in for criticism from national and international human rights committees. As a nation, we need to have consistency of service provision. One local authority might provide excellent accommodation compared to other areas. In some places in 21st century Scotland, it is quite shocking to see the lack of sanitation; you might expect to see it in a third world country. We are gravely concerned about those conditions.

We know about the work that has been done since 2001 but, when we did our focus groups, it was disappointing to see that a number of the respondents from the Gypsy Traveller communities felt that, although some action was being taken, it was not consistent across the country. It is almost like a postcode lottery. Transient people should be able to expect the same level of services across the country, and it is incumbent on those who are responsible for providing accommodation to address that urgently.

I know that the committee has been hearing a lot of negative issues about accommodation, and the SHRC would like to suggest an approach that would address the problem and take into account the rights of settled communities as well as the rights of the Gypsy Traveller community. The SHRC has developed a model for conducting interactions between different parties and bringing together those who are responsible for providing accommodation as well as those who are affected by accommodation issues to establish the facts, assess them, and negotiate outcomes that are suitable for all parties. That is what we would like to offer. We have not done any direct research, but we have done some secondary research and spoken to people from those communities. We think that we have a solution that might work, and that is what we would like to offer.

The Convener: Should local authorities be required to provide sites and should there be a minimum standard for sites across the country?

Should a mapping exercise be done to track the movements of Gypsy Travellers, so that transit sites can be provided?

Euan Page: On your second point, yes, we need to make sure that we recognise that bad policy is an inevitable consequence of trying to fit people into bureaucratic boundaries and systems rather than vice versa. A regional and national approach that properly understands the seasonal and geographical movement of Gypsy Traveller communities throughout Scotland is an obvious and necessary precondition for better planning and provision.

We have argued that, although there is guidance for local housing strategies, there is no requirement to follow through to provision. Getting the provision right is about having effective dialogue and communication with the communities affected. That is where the equality duties can play an important part by providing a framework for the dialogue. As the committee will know, the general equality duty has three elements: to eliminate discrimination, to promote equal opportunities and to foster good relations between different groups. We see the regular, annual flashpoints between Traveller communities and settled communities in parts of Scotland as one of the most pressing good-relations challenges that the country faces.

Sitting underneath the general duties since spring of this year has been the requirement for all the key devolved public authorities, including all local authorities, to meet the specific duties that set out the steps that they must take to meet the general duty. Included in those are the requirement to impact assess, for example. However, crucially, there is the requirement to set equality outcomes across all protected groups by April next year. Where authorities have decided not to set equality outcomes against a particular group, they must furnish evidence as to how and why they reached that decision. In setting the outcomes, public authorities are required to engage with the communities affected. That therefore seems like a useful, positive regulatory road map for how public authorities could begin to think through needs and future provision.

We will commission analysis of the first round of the equality outcomes following the April 2013 deadline. We would be surprised if, for example, any areas with a long historical record of seasonal flashpoints between travelling and settled communities were not identified and addressed through the equality outcomes. However, on top of that, we also want to see that there is read-through from what public authorities individually set as equality outcomes and what they set collectively through the community planning partnership process across local authority areas. However, more widely—I cannot stress this

enough—we want to see how they ensure that the plans work together so that we do not have disjointed or ineffective plans that brush up against local authority boundaries. The city/shire distinction in Aberdeen is one of the most obvious examples of where the boundary does not exist in the minds of the communities that are affected by poor dialogue and planning.

Dennis Robertson: You suggest that there is a mismatch between need and provision. We referred earlier to the shortfall of 35 pitches in the north-east in that regard. What are the main barriers to providing the sites to meet the need that has been identified, particularly for the north-east? You have indicated some of that already, but what do you think are the main barriers to identifying and providing suitable sites?

Euan Page: We have characterised the three challenges for the successful resolution of the issue as being around land, legitimacy and leadership. Suitable and appropriate land that matches the varying needs of Traveller communities needs to be identified. Also, the legitimacy of the travelling way of life and the fact that the Travellers have been part of the fabric of Scottish culture and society since the middle ages needs to be recognised. Travelling communities are part of what Scotland is. That is often neglected and forgotten, particularly in heated local debates where those who shout loudest are often, unfortunately—not always, but often—facilitated by slanted, incomplete and sensationalising media coverage of the issues. It is forgotten that there is an absolute legitimate right for travelling communities to have access to appropriate services and land.

09:30

The final issue is one of leadership. It is an issue for the Traveller community itself, where there are gaps in the capacity and support that are required to help the development of unified voices, clear agendas and leadership within the community—we should be looking to help foster that—but, crucially, it is also a matter of leadership at the national, regional and local political level. It has been intimated to us, as we mentioned in our written submission, that it is “political suicide” to be seen to be standing up for Travellers. We end up in a negative spiral of hugely inadequate provision leading to sensationalist local media coverage and to a failure—without sounding too negative—of political leadership to address the problem. There is a desire to simply kick the can down the road to next summer, when the same problems will be confronting the same people.

It is the interlinked three Ls of land, leadership and legitimacy that are the barriers and also the solutions to the questions of local site provision.

Duncan Wilson: I will build on Euan Page's points and come back to the original question about duties. There is already an obligation, first on the United Kingdom, then on Scottish ministers and—through the Human Rights Act 1998—on public authorities as well, to, in the words of the European Court of Human Rights,

“facilitate the gypsy way of life”.

That was a decision in a case that involved the United Kingdom—*Connors v UK*—so it is binding on this country.

The Scottish ministers also have obligations under the Scotland Act 1998 to implement the full range of international obligations that the UK has. Those include the right to adequate housing under the international covenant on economic, social and cultural rights and its equivalents in the children's rights convention and other international human rights law. That right has several elements, some of which are immediate obligations such as ensuring adequate sanitation and security of tenure. Both of those have been issues for Gypsy Travellers and they continue to be issues today—basic services.

A final element of the right to adequate housing is the duty to ensure that no one is evicted without due process and adequate alternative accommodation. An eviction without due process of law and/or without adequate alternative accommodation is a

“gross violation of human rights”

in the words of the United Nations Commission on Human Rights, as it was at the time.

Scotland is at least in a risky situation with regard to whether the proportionality of evictions is consistently balanced appropriately. Of course, weighed alongside that, as Professor Hampton laid out earlier, is the right of others to peaceful enjoyment of possessions, which is also a qualified right. The right of Gypsy Travellers and others to respect for private and family life is also a qualified right, as is the right of everyone to property or peaceful enjoyment of possessions. The task is to balance those rights while achieving the progressive realisation of the right to adequate housing that is culturally appropriate. For some, that will be transit sites or permanent sites and for others it will be settled accommodation.

To balance all that, we require an understanding of the facts. What is the situation—as the convener highlighted—regarding the availability of adequate stopping places? Where are they available and where are they not? What are the barriers that we are pointing to?

We should sit round the table together—local authorities, national Government, Gypsy Traveller communities and others whose rights are

affected—rather than having individual evidence sessions and assigning disparate responsibilities, in order to negotiate a solution that is based on an understanding of the facts and an analysis of the affected human rights and the equality duties. We should identify who among the actors has certain responsibilities, and which actions should be taken. We will then require a recall process that, over time, looks at whether those steps have been taken.

There is a lot of research, to which the committee has added. One thing that we have heard—and which I am sure the committee has seen in the written evidence—from Gypsy Travellers and others who work with them is that, despite the volume of research, action is lacking.

We propose that the committee recommends that the Government, together with local authorities and others with responsibilities, exercises the leadership that Euan Page talked about, and which is mentioned in Amnesty International's submission and by the Minority Ethnic Carers of People Project and others. It should develop an action plan to address the gaps that currently exist, and a road map for realising the rights of Gypsy Traveller communities and settled communities.

Professor Hampton: We have passed equality legislation and human rights legislation, and we have developed policies and undertaken a lot of research, so it is not for lack of trying.

When I was at the Commission for Racial Equality, I did a lot of work with the Government at the time to try to address the previous committee's 37 recommendations. Although there was commitment and leadership in some parts of the country, sustainability has been an issue: we get off to a good start, but there is no continuity.

In the process that Duncan Wilson has outlined, there is collective responsibility that involves not just the Government or the local authority but other housing providers, including private providers. They will all have an opportunity to come together to understand the rights of others and to be part of the solution. There is a huge advantage when people feel that the solutions come from them. That type of interaction is useful, and it will kick off the mapping—which the convener mentioned earlier—that will provide an insight into where the gaps are and enable us to find national rather than local solutions.

Although the services are delivered locally, a national strategy would be useful so that local authorities and other partners, and those who are affected, are constantly talking to each other. The recall aspect is the most important part—we need a monitoring function and someone to keep an eye on things so that we do not get heavy investment

at the beginning and then nothing towards years 3 and 4.

The Convener: Before I bring in John Finnie, I want to ask Euan Page about equality outcomes, which he mentioned in response to my question. Who will monitor those outcomes? A bit of background on that would be helpful.

Euan Page: Of course. Before I answer that, I will respond to an element of your previous question that I did not address. You asked whether a duty should be placed on public authorities to require minimal compliance on site provision and so forth. However, where we require minimal compliance, that is precisely what we tend to get. The model that we would like to encourage is much more along the lines advocated by Professor Hampton a moment ago. Communities must feel that they are equal partners in delivering better outcomes. That should be about taking the structures and processes that are in place to identify desired outcomes and ensuring that Gypsy Traveller communities at the regional, local and national level are a valued and legitimate voice in that process.

We should be circumspect about the idea of minimal compliance. We work in an outcomes-focused policy environment in Scotland. The issue is about ensuring that the voices of some of the most marginalised communities are heard clearly when outcomes are being set and when resources are being identified to support the progressive realisation of those outcomes.

On the convener's question about monitoring, when we get the first round of equality outcomes in spring next year, we will commission a piece of work to analyse them. We are well aware of some of the issues that we would expect the equality outcomes process to address.

At the end of the day, when public authorities fail to meet the requirements of their general and specific duties, the commission has enforcement powers. We can issue legally binding compliance notices and so forth. However, that is seen as the last resort. Once we start going down the route of compliance, we will get minimal compliance. We do not envisage using enforcement powers, except where there is clear and overwhelming evidence of recalcitrant authorities simply refusing either to meet the bare minimum that is required by their duties or to put that bare minimum into practice.

Our approach is more about helping public authorities, in dialogue with them, to map out what they are doing, through identifying and setting equality outcomes, and to weave that through the wider outcome-setting process in local authority areas. We will talk to ministers with regard to their duties under the Equality Act 2010 to ensure that

that is replicated at national level. We have a role in monitoring equality outcomes and we have the ultimate sanction of enforcement of compliance. However, our approach is based on trying to foster dialogue and agreed ways of working. The compliance route is an option of last resort.

The Convener: That was helpful.

John Finnie: My question is primarily for Mr Page, but I would be happy to hear from the other panel members, too.

I will try to phrase a question out of the many overlapping elements. I commend the approach that the north-east councils have taken. The joint approach is the way forward, as would be suggested by the Christie commission. I find it hard to accept that, several years on, councils have been unable to identify land for transit sites. I imagine that commercial property developers would not have had such difficulty.

First, do you see a role for joining the housing needs assessment and local plan to provide early identification of sites? Secondly, picking up on Mr Wilson's comment about the requirement to

"facilitate the gypsy way of life",

would it be a helpful exercise to map traditional sites? I can think of one in my area, which is zoned for housing, and where property developers will be seen as potential beneficiaries.

I am from the Highlands, and Highland Council has four sites—three permanent and one seasonal. However, the figures show that several local authorities have no sites. Are they meeting their obligations if they have no sites? I fear that some local authorities that do not have sites will keep their heads down because they do not have any problems and, as they see it, they might have difficulties if they had sites.

I know that my questions were convoluted, but will the panel pick up on the relationship between the housing needs assessment and the local plan; the mapping of traditional sites; and whether local authorities that have no provision for Gypsy Travellers have met their obligations?

09:45

Euan Page: That is a series of interlinked and huge questions. In answer to your first question, the word is often bandied around, but I think that we are talking about mainstreaming. If local authorities, in their housing and planning strategies, are failing to take account of the needs of Traveller communities in their areas, they are proceeding on the basis of partial or incomplete evidence. Therefore, they will inevitably produce less optimal outcomes than they could. I absolutely agree with what you suggest.

Evidence gathering is absolutely key to any mapping exercise. That will involve tapping into local knowledge, as you say, but it will also mean holding effective dialogue with the affected communities—communities who, completely understandably, are increasingly wary of engagement with public authorities, because such engagement usually comes in the form of being moved on or evicted. In undertaking that exercise, there is a big issue to be addressed about leadership and trust, but I would have thought that regional and local mapping would be extremely valuable. Where authorities say that they are struggling to identify sites because they do not have any knowledge of the seasonal migratory patterns of the communities in their areas, an obvious first step would be to talk to those communities and get that evidence.

On the question of meeting obligations, I believe that Highland Council covers an area the size of Belgium. On the face of it, it seems unlikely that four sites will be adequate for that geographical area. However, that takes us back to the previous question about gathering evidence and listening to the affected communities so that they are partners in devising solutions. There is no obligation for local housing strategies to provide sites, although there is guidance requiring local authorities to consider such needs. We need to find the most effective means of fostering dialogue, communication and effective evidence gathering to produce meaningful and holistic outcomes.

Will that come from statutory obligation or by utilising the human rights frameworks? The approach that the EHRC whole-heartedly endorses is the one that the SHRC has set out, which uses the existing regulatory requirements to gather evidence, engage in dialogue with the affected communities, set equality outcomes and ensure that those equality outcomes are read across to the work of community planning partnerships in devising single outcome agreements.

I might be slightly ducking your question on obligations, but we need to be wary about believing that we will get any further forward by introducing another round of statutory or regulatory obligations on councils. It is more about encouraging the approach of national, local and regional dialogue, with appropriate oversight and review, as my colleagues from the SHRC have mentioned. We must ensure that public authorities, the settled community and the Traveller community all realise that it is in their interests to proceed on the basis of dialogue and shared ownership of the outcomes that they want.

Professor Hampton: Perhaps I can simplify and clarify the issue. The EHRC and the Scottish Human Rights Commission seem to want the

same outcome, but are coming at it in different ways. Building trust and making informed decisions on whether all local authorities should automatically have sites can happen only if we establish the facts. Although all that information is on the table, people need to sit down together and discuss it.

As I said at the beginning, one size does not fit all. The communities themselves might say, "Actually, we don't really require a site in this local authority area, but we need more in other local authority areas." It is not about saying, "Well, we have four here so we need four or more there."

From a rights perspective, every local authority should be aware that it ought to consider the rights of every citizen passing through their area who might have a certain type of accommodation requirement and, indeed, do so in its planning by having regard to the evidence that it uses to allocate resources and plan what to do with the available land. I see it less as a matter of equality and more as about people's right to the type of accommodation that they require, and the only way in which we can understand the level of need is by getting the right stakeholders round the table.

If that does not happen, we will simply be speculating on evidence from different parts of the country, which is a dangerous route to take. After all, the situation in Glasgow is different from the situation in the north and the Highlands. In the Highlands, for example, more sites—and, indeed, stop sites—are required, whereas in urban areas people might want more settled types of accommodation of a different size. We need interaction between the stakeholders in different local authorities across the country, first, to build dialogue and trust and then to come up with good solutions for different areas. When I said that we need a national strategy, I did not mean that local plans could not emerge from it.

Euan Page: I am happy to reassure Professor Hampton that I do not think there is that much difference between our approaches. The EHRC agrees that this is fundamentally a human rights issue; my perhaps not-particularly-well articulated point was that public authorities already have the positive regulatory framework of the equality duties, which can not only help them to think through how they might go about having exactly that kind of local engagement to ensure that they avoid a one-size-fits-all approach, but encourage them to devise outcomes jointly with the affected communities. We and our SHRC colleagues are taking complementary rather than parallel approaches.

Marco Biagi: As Mr Page has already given his view on this matter, my question is more for Professor Hampton and Mr Wilson. To what extent are the perceptions among the settled

community—for want of a better term—the obstacle to creating the kind of dialogue that you described as the ideal outcome?

Professor Hampton: That is a real barrier in some parts of the country. Negative reporting in the media stirs up negative relationships in the community. Some issues are grossly exaggerated, although there might well be fly tipping and so on—I do not deny that that could be part of the lifestyle. However, the media paints a negative picture and exaggerates the problem, which creates tensions so that there is then a stand-off between Travellers and property owners who take a not-in-my-backyard attitude and talk about the impact on house prices. It is a complex argument, but it is driven by the majority, who happen to be in settled accommodation.

Discrimination against the minority ethnic group of Gypsy Travellers undermines any positive discussions that might be had on the issue. To overcome that barrier, we have proposed negotiated outcomes and solutions and, indeed, negotiated monitoring. I believe, however, that it is not feasible to have dedicated organisations to monitor, given that we monitor so many things. I believe that, if we have interaction and collective agreements, we have collective monitoring as well. That means that the people who might be barriers, such as the settled communities, might become part of the solution and might start helping to resolve the problem.

Duncan Wilson: I agree that we complement one another well in what we say. I think that we are all saying something similar, which is that the present failure of Scotland proactively to grasp the issue and to reconcile the lives of everyone in Scotland, including those who have culturally specific accommodation requirements, often leads to a cycle of occupations, evictions and conflict. We propose a more proactive approach. There is no doubt that discrimination underpins the present approach.

A positive reaction now would be for all those involved to exercise their right to participate in shaping solutions. There are genuine and legitimate opinions, views and experiences on all sides of the debate, so I caution against further increasing the existing wedge or distance. We have reported, as others have—Amnesty has documented this clearly in its research—that discriminatory attitudes are present in the public and in the media. In our submission to the United Nations this year as part of the universal review of all the UK's human rights obligations, we recorded a researcher who summarised the position by saying that it is culturally acceptable to be racist about Gypsy Travellers in Scotland. That situation is clearly unacceptable.

Marco Biagi: That takes me back to something in the EHRC submission. I know that you did not write it, Mr Page, but it claims that

“These attitudes are mirrored in blogs which incite hatred.”

That is a serious claim.

Euan Page: Yes. As I understand it, there are issues around message boards, blogs and comments boards on local and national newspaper sites. We know of at least one occasion on which a newspaper site had to remove comments when it became clear that it was responsible for the comments that were being left by subscribers. That feeds back to Duncan Wilson's point about racism against Gypsy Travellers being an acceptable or more acceptable form of discrimination than others in contemporary Scotland. There is always the propensity, given the nature of the new media, for people to troll and evince opinions in a way that they would never dream of doing in another setting.

That is certainly an issue, and it is part of the legitimacy element of the three Ls that I talked about earlier. It is part of the challenge that the local and national media face in choosing how to frame debates.

10:00

Marco Biagi: Given the salience of the issue in current policy debates, are the media effectively self-regulating in the area?

Euan Page: We can point to good and bad practice. Undoubtedly, the flashpoints in relations with which we are all too familiar in certain parts of Scotland are fuelled and exacerbated by slanted and selective media reporting. However, we can think of other examples of the media playing a positive role in articulating the point that Duncan Wilson made a moment ago about everybody on all sides of the debate being bearers of rights and responsibilities. Recognition of the legitimacy of the whole spectrum of views across this difficult area is a necessary precondition for reaching an agreed conclusion. There is good and bad out there.

Duncan Wilson: You ask a sensitive and timely question, but I will not express a view on the question of regulation, as our commission has made it clear that it wants to consider carefully its position on that. I can say that the issue engages two human rights—among others—both of which are qualified. The first of those is the right to freedom of expression. It is perfectly acceptable to regulate the limits of acceptable speech, as Scotland does. The second is the right to a private and family life free from the extreme elements of speech that is aggravated by prejudice, or hate speech, as it is called. However, I am afraid that

we are not in a position to state our view on regulation—self-regulation or otherwise—at this point.

Professor Hampton: I have two points on discrimination. First, I do not disagree with my colleague from the EHRC. We are coming at the issue to achieve the same end, but from different angles, and I fully support everything that has been said.

Secondly, leaving aside the media for a moment, discrimination is the last bastion of respectable racism, if I can put it that way. I have been involved in the area of discrimination—particularly racial discrimination—and the days of “No dogs, no gypsies, no blacks” are long gone. However, it seems as though all the other groups have fought their battles slightly more successfully and that the Roma, Gypsy and Traveller communities have been left behind. The recent negativity in Europe towards the Roma and immigration is impacting on all kinds of Traveller, Gypsy and Roma communities, and that is now one of the more urgent issues. Looking at the discrimination spectrum from a race perspective, that is an area of great concern. Even ethnic minority communities who themselves suffered discrimination 10 or 20 years ago tend to have prejudices towards the Gypsy Traveller community. I found evidence of that in a piece of personal research that I did recently.

Siobhan McMahon: I have a supplementary question on the media. Mr Wilson touched on the issue slightly, but I will direct my question to Mr Page if you do not mind. It might be a bit unfair, given that you did not write the EHRC submission and that Amnesty International is not here today to defend itself, but my question is on something that Amnesty says in its submission. It says that all people—not just the media—should be careful of the language that we use and how we interpret things. It says that we should not talk about “illegal traveller sites” because, given the overcrowding problems and the fact that there are not enough sites around the country, to talk about temporary sites in that way puts a negative perspective on them. However, the submission from the EHRC goes slightly further in calling those sites “unlawful encampments”. Given that Amnesty says that we should not use the word “illegal” and that we should choose different words such as “unauthorised” to describe temporary sites, I wonder about the relationship between the EHRC and Amnesty. We are looking at all the submissions, and those views seem to be conflicting.

Euan Page: I am happy to take that observation back and reflect on it. That picks up on the wider point about the way in which the law is currently understood and applied leading to situations in

which acting unlawfully is unavoidable. You are absolutely right: the language is extremely important. I am happy to take the point back to colleagues and consider it further.

On the wider point about the media, perhaps it is worth flagging up that we will revise our guide for the media, which we first published a few years ago and sent to all the different media outlets in Scotland. I think that there are 7,000 of those; the figure is extraordinary. We will set out some of the issues in a non-legalistic way, not with the view to what is said being a preamble to enforcement action, but simply to illustrate some of the issues around Gypsy Travellers and their problems around interaction with settled communities, accommodation and so on, and to show how the way in which those issues are reported and relayed impacts on the desired outcome of resolving them. We will revise the guidance with a view to sending it out to all media outlets in Scotland in 2013. We will not take a regulatory view or get into wider current debates post-Leveson about the regulation of the press, but we will try to foster dialogue and the virtue of taking a more measured approach in furthering the aim of advancing the interests of papers’ readerships and communities, which is, I am sure, the aim of all editors of local papers.

Duncan Wilson: I would like to supplement what Euan Page has said in response to Siobhan McMahon’s question.

I have some sympathy with Amnesty International’s view on language. The issue is easiest to illustrate if we see the opposite—the failure to adequately provide stopping places—as unlawful. Certainly under international human rights obligations, the current state of delivery of culturally appropriate accommodation is a stain on Scotland’s human rights reputation. We and the UK more generally have been criticised in the universal periodic review by the United Nations and by the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, the UN Committee on the Elimination of Racial Discrimination, the UN Committee on Economic, Social and Cultural Rights, the European Court of Human Rights and the European Committee of Social Rights—I may have missed some bodies—for the failure as yet to do what we are all proposing: to reconcile the rights of everyone. Labelling as illegal a community’s action in seeking accommodation options where no others are available invokes a criminal justice response that really ought to be the last resort. There are legitimate circumstances in which those with private property rights can seek from the state the enforcement of their right to peaceful enjoyment of their possessions, but that is really when the state has failed. That should be the response to isolated incidents of illegal

activity rather than the regular response of the state when it has failed to provide adequate accommodation.

Marco Biagi: I have a final question. The journalistic code emphasises the importance of a right to reply, but Amnesty's research found that only 6 per cent of the articles about Gypsy Travellers presented a community voice. How much is that down to an inability to participate in media structures through having the requisite spokespersons and organisations, and how much is that a sidelining?

Euan Page: It is related to the leadership question. Building capacity in the communities is part of the issue but, inevitably, it is also about reflecting the views of those who shout loudest at any given time rather than actively seeking the views of the other side of the story. That is particularly the case with local media.

Professor Hampton: I cannot comment on Amnesty's research or speculate on the cause of that issue. It could be a capacity issue, but what comes to mind is that whoever articulates a story best gets reflected in the media. It is difficult to make any assumptions from a percentage and I would not want to do that, because I was not involved in the research.

Marco Biagi: I know that I said that that would be my final question, but I suppose that what I wanted to ask was this: if a journalist wanted to get a comment from someone from a Gypsy Traveller community, could they reasonably do that?

Professor Hampton: Instinctively, I would say that it is about trust. If people have been maligned in the media, they will not want to participate in any article that would be published, because there will be no trust. If a journalist wanted to have that engagement, they would have to start to build a relationship with a community, to get an inroad.

The committee meeting started off with Siobhan McMahon asking whether we had visited sites. I think that just popping into a site as an observer can be quite offensive, because you have gone to watch and you will not necessarily take any action. Those who have engaged with communities for a long time find it easier to visit sites to establish the issues and problems. Any interaction between Gypsy Travellers and individuals from the press can happen only on the basis of trust. If people feel that they have been negatively represented, they will not want to engage. That is based on my experience of people suffering from racism, who often refuse to give their side of the story because of the way in which they have been represented. For example, when the *Daily Mail* ran a campaign on immigrants, immigrant communities refused to

give their side of the story because they felt that it would not be fairly reflected.

John Mason: We have covered quite a lot of ground, but I will continue with the media theme. I take the point that you do not want to talk about regulation of the media, at least at this stage. Mr Page was quite generous to the media when he said that there were some good stories and some bad stories. Amnesty International's information on the media is hugely negative.

There are issues around regulating the media, but there is a wider issue of community attitudes, education and so on. We have not mentioned schools. If we want to change something, the answer tends to be to go through schools, although I accept that they cannot do everything. Would you support that route and should we do more in schools to try to change the attitudes of the public—of journalists and everybody else?

Professor Hampton: Again, the SHRC has not done any particular research on that. However, awareness raising in education is always the route to informing people about prejudices. That is the strategy that we have pushed.

As I was coming in here today, I was handed a leaflet by STEP—the Scottish Traveller education programme—which does a lot of work on engaging Scotland's community in education. That can be broadened out from just trying to include the Gypsy Traveller community in education by encouraging them or enabling them to access education. Part of the mainstreaming agenda is to integrate into the curriculum teaching on discrimination, be that towards ethnic minority communities or Gypsy Travellers. Schools and also community education programmes would be a very good place to start.

Duncan Wilson: The issue is also linked to obligations in international standards. Under the International Convention on the Elimination of All Forms of Racial Discrimination, the UK—and of course Scotland as part of it—ought to be integrating into the curriculum positive images of minorities, by which I mean not just cultural traditions and so forth but images of history makers, if you like, or those presented in other materials in diverse parts of the curriculum. I know from experience that textbooks can represent women as homemakers and men as history makers. If the Gypsy Traveller experience, say, is focused on for only a day—or indeed part of a day—using discrete materials in one part of the curriculum but is completely absent the rest of the time, that seems like tokenism to me. A more integrated approach to ensuring that positive images across the curriculum or in different curriculum subjects such as geography or history reflect the breadth of Scottish society would be a very positive step forward.

10:15

Professor Hampton: An incredible fact that most people forget is that some Traveller communities are indigenous to Scotland. When I was involved in this area a couple of years ago, I used to hear the argument that, at the same time as we were representing and fighting the cause of newly settled minority ethnic communities, communities indigenous to this country—some of whom speak Gaelic—were being excluded. The issue is relevant in any discussion of Scotland's history. It is not that all of these people have come from outside, as it were, and are seen as outsiders. The fact that a number of people I spoke to were indigenous to Scotland and its culture is an important element that should be used in education.

John Mason: I want to press you on the question of who is responsible for what at national and local level. I know that Amnesty International is not represented this morning, but I feel that the position expressed in the submissions is a little more hardline than what I am hearing this morning. I believe that Mr Wilson, for example, talked about negotiating a solution at one stage, which is an approach that I am a bit more comfortable with.

I wonder whether you can clarify this issue. In its submission, EHRC says:

"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."

I feel that that is quite a strong statement. Similarly, Amnesty talks about

"Political leadership to drive this forward—i.e. Scottish Government needs to tell local authorities to get their act together".

I do not expect you to defend that comment, but can you clarify how you think the relationship works and what the Government or Parliament should be doing now?

Euan Page: I suppose that the point could be rearticulated by suggesting that we must recognise that the concordat between local and national Government has undoubtedly changed the relationship and respective decision-making roles. That needs to be accepted and recognised, and not used as a justification for a lack of joined-up action.

We have talked extensively about the need to ensure that effective solutions are not hampered by people carrying jurisdictional boundaries in their heads when addressing regional and national policy challenges, and we must ensure that the concordat is not inadvertently encouraging an approach in which ministers feel that they are powerless or have very little room for manoeuvre

in how they can direct or foster regional or local co-operation.

John Mason: Would you have a Government minister call a representative from every local authority and sit them all down in a room with some representatives of the Gypsy Traveller community to discuss the issues? Do you think that that would be a way forward?

Euan Page: I would endorse the approach that my SHRC colleagues outline in their submission, which recommends an action plan that is based on human rights and which involves all the interested parties. They propose a process that is based on evidence gathering of robust facts; analysis of the issues; identification of how to resolve those issues; and, crucially, a review and recall mechanism that is built in. How that is done precisely can be identified further down the line, but there is undoubtedly a need to address the problem at the local, regional and national levels.

Duncan Wilson: I endorse that. The first point is that there are various ways in which a country can organise its affairs internally, so the existence or otherwise of single outcome agreements and the concordat should not of itself be a barrier to delivering human rights. The obligation rests with the Scottish ministers to ensure that the delivery of human rights is consistent across the country.

To answer your second question, in an area such as this—where there are recognised gaps and inconsistencies and where there is a recognised need for national leadership—the proposal that you have outlined could be one way of achieving that. Certainly, that accords with the interaction model that we have proposed, under which the Scottish ministers would exercise leadership in gathering together all those who share responsibilities, along with the communities that are directly affected, to ensure that the rights of Gypsy Travellers and others are recognised.

I might add that, for example, the Scottish Association for Mental Health—we have also documented this in our research—has analysed the single outcome agreements and recommended that they ought more routinely to integrate human rights and equality considerations. That is another vehicle or mechanism that could be explored.

John Mason: We have not touched on liaison officers so far—

The Convener: Before we move on to that, let me bring in John Finnie and Dennis Robertson, who have supplementary questions on the previous point.

John Finnie: I am not sure that this automatically follows on from John Mason's question, but I have a question for Mr Wilson

about the legal aspect. The term that Mr Wilson has used repeatedly is “culturally appropriate accommodation”. In the commission’s view, would that include transit sites and seasonal provision?

Duncan Wilson: Yes. That is not only our view but the view of the international and regional human rights bodies. “Culturally appropriate” means appropriate to the members of the minorities themselves, so it is really for them to help shape what is considered to be appropriate accommodation that meets their requirements. The answer is yes.

John Finnie: Thank you. It is helpful to have that on the record.

Dennis Robertson: I have a brief supplementary on the suggestion that we bring everyone together. That is certainly commendable, but a loud message that we have heard from Gypsy Travellers is that they have previously been failed and so there is not that element of trust. To some extent, they were reluctant to come here because they have been here before and Parliament has been looking at the issue since 2001. Although you are recommending that everyone should be brought together, do you believe that the Gypsy Traveller community would have the trust and faith to attend such a meeting?

Duncan Wilson: As I have made that suggestion repeatedly, perhaps I might answer.

One of the distinctions between our proposal and the previous experience is the element of sustainability, as Professor Hampton mentioned, which would be provided by the recall or follow-up so that the process leads to action rather than just recommendations.

In the interaction approach that we outline on pages 9 and 10 of our written submission, the four steps of the FAIR framework—facts, analysis, identification and recall—include recall as the final step to ensure accountability. In that step, all those who shaped the action plan in the first round would reconvene to review whether the agreed steps had been taken and, if they had not been taken, why they had not been taken, so that everyone can understand and address any barriers to progress. The mechanism in itself would therefore ensure sustainability, co-ordination, follow-up and, crucially, accountability.

One of the things that we recorded in our interactions with Gypsy Travellers was the positive response to the 2001 inquiry that this committee’s predecessor undertook. However, there was disappointment—I am sure that the committee has heard this point repeatedly—at the lack of follow-up on and implementation of the 37 recommendations. The mechanism that we propose seeks to address that issue by ensuring that there is a process and not just a meeting.

The Convener: We will go back to John Mason for his other questions.

John Mason: An area that I think Amnesty highlighted more than others is the variation among local authorities in having a Gypsy Traveller liaison officer, a site manager, or a combination of the two. Do the witnesses have any thoughts about that? It goes back to the question of trust and building up relationships rather than just impersonal systems.

Professor Hampton: As I said, I cannot comment on a paper that was written by someone else, but in our experience it is a good idea to have somebody dedicated to and responsible for championing and linking. That said, we would like to see a much more mainstream approach, so that a local authority does not send just a token somebody, with nobody else engaging with the agenda.

We need to weigh up the pros and cons of having a liaison officer. It could have positive aspects but, if the policy is not implemented consistently and monitored effectively and there are no outcomes and accountabilities attached to it, it can easily become just one person’s responsibility rather than the council’s responsibility. I therefore have a few reservations in that regard.

Euan Page: I completely agree with that. Liaison officers can be useful, but their use should not be seen as a substitute for local authorities strategically addressing with their partners the outcome-setting agenda, housing and planning strategies, and so forth. Decisions on such aspects are taken many grades above that of a liaison officer, whose role can be useful but not as a substitute for what I have indicated.

Duncan Wilson: I want to take us back to Euan Page’s very helpful three Ls—leadership, land and legitimacy. I certainly feel that I lack the legitimacy to answer John Mason’s question directly. The most important actors in shaping the way in which we ensure delivery in practice ought to be the people whose rights are affected. Therefore, it should be Gypsy Traveller communities, by exercising their human right to participate in decisions that affect them, who outline the best way of ensuring that things happen in practice.

John Mason: That is a slightly different way of looking at the issue. I am fairly new on this committee, but the impression that I get is that relationships and trust are extremely important to the Gypsy Traveller community and perhaps more so than theoretical rights and systems that are written down. Are we saying that it should be a combination of the two?

Duncan Wilson: Obviously, I would defend the human rights framework as a legally enforceable

basis that sets out the minimum standards that people can expect from the state that allow them to shape their situation. Part of that is the right to participate in decisions, which I think we can go further in realising for Gypsy Travellers so that it requires information in accessible forms and a mechanism by which people can shape what happens at an early stage before decisions are taken. That approach is therefore quite different from consultation; it is about shaping the processes at a stage when they are still being developed, which I believe is key.

The rights framework is a backstop protection, if you like. We are one element of ensuring that the state is accountable for delivering on human rights. There are many ways of delivering the rights, but the crucial actors in deciding how they should best be delivered are the people who are directly affected.

10:30

The Convener: One of the recommendations following the 2001 inquiry was that local authorities should appoint liaison officers as a separate role from that of site managers. Some have done that—there is a mix across the country, with some areas having liaison officers and some having site managers. However, when we visited Gypsy Traveller sites, we were told that the site managers are rarely on site, are unco-operative or do not champion the rights of the Gypsy Travellers.

Would it be beneficial for the role of Gypsy Traveller liaison officer to be expanded in order to enable them to act more as a go-between in the relationship between the local authority, the Gypsy Travellers and the local community and to help build those bridges? Would it be beneficial for every local authority to have a liaison officer and a site manager to champion the cause?

Professor Hampton: I want to reinforce the idea that there is no need to go through a third person when the two parties can communicate directly if they are empowered to do so. Trust must be built with the broader community rather than having one individual representing people's views.

Often, a gatekeeper situation can arise, with the views being filtered and some issues being lost in translation, if you like. I am always nervous about having those middle-men figures. Real empowerment is about allowing a dialogue between the people who are affected and the people who will provide the services or the accommodation. I would rather see a direct conversation happening. You could have an objective facilitator who could bring together the dialogue, but I am not comfortable with expanding the role—or even with having the role, actually.

Euan Page: I agree. There are potential dangers with being too prescriptive. If a liaison officer with some kind of enhanced advocacy role could make a difference, and there were clear and objective evidence to back that up, then by all means have one. However, to reiterate my earlier point, an officer should not be a substitute for the proper mainstreaming of the needs of Gypsy Traveller communities in the strategic approach of public authorities, as my colleagues have indicated. There should be equal involvement with the communities, as equal partners, when it comes to determining outcomes and how they are arrived at.

Dennis Robertson: I see that there is a reluctance to have a middle man, but there is sometimes a requirement for someone to articulate views. When we were taking evidence, we found that some of the Gypsy Travellers were not comfortable with putting things down on paper or filling out forms. Therefore, I think that there is a role for an advocate, a liaison officer or someone like that to enable a process. The people are empowered, but it might be necessary to have someone who can articulate the view of the community or the individual.

Duncan Wilson: Experience in other areas shows that there can be a role for supporting participation. It would be a mistake to see that as a negative obligation. If people turn up at a local authority and express their views, they might be heard. If there is a genuine attempt to reach out and bridge the gap between local authorities, there might be value in having a liaison officer. However, what we are all saying, in various ways, is that we are not the best people to shape that decision and that it should be Gypsy Travellers who decide the best mechanism to ensure that their voices are heard and that they can exercise their right to participate.

Professor Hampton: Having a spokesman is different from having a liaison officer. If the communities choose to have people to represent their views—rather than a local authority appointing a liaison officer—I am slightly more comfortable with that, because the dynamic of the power relationship is slightly different.

Euan Page: Two years back, Highland Council officers who were working on Gypsy Traveller issues expressed concern about the level and nature of the political influence that was being brought to bear on them by elected members, who had their own concerns about and priorities for representing some of their ward constituents' views. If wider political consensus and leadership are absent and if such questions are not addressed, the effectiveness of an officer—a named person—or officers, however well qualified they are, can be minimised.

John Finnie: The issue to which you refer was high profile. You talked about newspaper blogs, in which reprehensible comments were made about that issue. The elected member involvement was across parties, including mine; I did not support the elected representatives' position and I thought that the employee with direct responsibility for the Gypsy Travellers discharged her obligations absolutely appropriately. She enjoys my full support.

Euan Page: I endorse Mr Finnie's point absolutely.

Marco Biagi: My point has been largely covered. Am I right in characterising your view as being that it is more important for resources to go to advocacy from within the community than to go to in-house liaison officers in local authorities? If I am incorrect, what is your view about resource? It is clear that having Gypsy Traveller liaison officers—or not—would have resource implications.

Professor Hampton: I would prefer resource to be made available to enable direct conversations between the communities and those who are responsible for providing accommodation. However, if we want to start with developing links and building relationships, that needs to come from the communities, rather than be part of the local authority.

Siobhan McMahon: Another recommendation of the 2001 inquiry was a national model tenancy agreement, which has never seen the light of day. The group that was tasked with developing that no longer exists. Is a national model still needed or should we consider something else? We will make recommendations in our final report, and we want them to be as useful as possible

Duncan Wilson: We have no particular view on that question, but I reiterate that security of tenure is an immediate obligation, to ensure that people are not at risk of summary evictions without adequate alternatives.

Euan Page: We would benefit from the expertise and insight of my colleague Chris Oswald on the question but, unfortunately, he is not here. I would be happy to write to the committee about that complex area—a number of changes in the law on tenancy have occurred. If the committee would like to invite us in for further discussion down the line, we would be delighted to participate in that.

Siobhan McMahon: That is excellent.

The Convener: As committee members have no further questions, I thank the witnesses for coming along for a useful oral evidence session and for their submissions, which will help us in questioning future witnesses.

10:40

Meeting suspended.

10:42

On resuming—

The Convener: Item 2 concerns inquiry witness expenses. In line with the usual practice, members are invited to delegate to me as convener the responsibility for arranging for the Scottish Parliamentary Corporate Body to pay, under rule 12.4.3, any witness expenses in the committee's inquiry into where Gypsy Travellers live. Is that agreed?

Members indicated agreement.

The Convener: That concludes our meeting. Our next meeting will take place at 9 am next Thursday.

Meeting closed at 10:42.

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