



EQUAL OPPORTUNITIES COMMITTEE

AGENDA

12th Meeting, 2014 (Session 4)

Thursday 19 June 2014

The Committee will meet at 9.30 am in the James Clerk Maxwell Room (CR4).

1. **Female Genital Mutilation:** The Committee will take evidence from—

Detective Superintendent William Guild, Child & Adult Protection including HBV, FM and FGM, Public Protection Portfolio, and Detective Inspector Nadine Aliane, National Safer Communities Department, Police Scotland.
2. **Glasgow Commonwealth Games 2014:** Update and feedback from Siobhan McMahon MSP.
3. **Gypsy/Travellers and Care and Where Gypsy/Travellers live:** The Committee will consider a response from the Scottish Government and correspondence from stakeholders.
4. **Public petitions:PE1372** The Committee will consider petition PE1372, by Friends of the Earth Scotland, on Access to justice in environmental matters
5. **Having and Keeping a Home: steps to preventing homelessness among young people (in private):** The Committee will review written evidence received and agree its approach to follow-up work on the inquiry.

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The papers for this meeting are as follows—

Agenda item 1

PRIVATE PAPER

EO/S4/14/12/1 (P)

Submission from Police Scotland

EO/S4/14/12/2

Agenda item 3

Note by the Clerk and SPICe

EO/S4/14/12/3

Agenda item 4

Note by the Clerk

EO/S4/14/12/4

Agenda item 5

PRIVATE PAPER

EO/S4/14/12/5 (P)

EQUAL OPPORTUNITIES COMMITTEE

FEMALE GENITAL MUTILATION

SUBMISSION FROM POLICE SCOTLAND

As the lead for Public Protection for Police Scotland, I wish to provide the following written submission in advance of the above committee meeting on Thursday, 19 June 2014.

Female Genital Mutilation (FGM) is a gender-based crime, which has devastating consequences for women and girls. Police Scotland is committed to working in partnership to tackle FGM and in the case of infants and children recognise it as child abuse, which requires to be considered in the context of child protection.

Whilst the prevalence of FGM in Scotland is unknown, it is recognised that there are a significant number of women and children from affected communities resident in Scotland. It is hoped that the scoping project currently being carried out by the Scottish Refugee Council on behalf of the Scottish Government will contribute to a better understanding of the scale of the problem.

Police Scotland's view is that legislation alone will not eliminate FGM. The lack of any prosecution in Scotland since the introduction of legislation in 1985 supports this while highlighting issues of under reporting. It is recognised that there are many barriers to reporting FGM both within communities and organisations that require to be overcome. There is also a lack of knowledge and awareness of FGM, that requires to be addressed both at a national and local level.

Since the establishment of Police Scotland we have implemented and introduced new national posts, structures and procedures in connection with Public Protection, which will drive and improve our response to Honour Based Violence (HBV), Forced Marriage (FM) and Female Genital Mutilation (FGM).

A Detective Chief Superintendent post has been established within the Specialist Crime Division of Police Scotland with responsibility for Public Protection. This post is supported by a Detective Superintendent with responsibility for child and adult protection that is further assisted by two Detective Chief Inspectors and a Detective Sergeant who performs the role of national co-ordinator for HBV, FM and FGM.

Across the 14 Divisions of Police Scotland senior officers have been identified to perform the role of HBV Champions within their local police area with a nominated deputy to ensure a consistent police response to reports of HBV, FM and FGM.

In addition, three national meeting structures have been introduced by Police Scotland with the strategic aim of developing positive and proactive practice in the fields of HBV, FM and FGM aimed at preventing crimes and improving service delivery to those affected.

The Police Scotland HBV Working Group is an overarching multi-agency strategic group chaired by the Public Protection, Detective Chief Superintendent and attended by representatives from the Scottish Government, Crown Office Procurator Fiscal Service, Royal College of Midwives, and the Royal College of Nursing. As a result of this group a Police Scotland national action plan has been developed to meet the strategic objectives.

The Police Scotland HBV Forum is chaired by the Adult and Child Protection Detective Superintendent and is attended by the National HBV Co-ordinator and the 14 Divisional Champions or nominated deputy. The purpose of this forum is to drive local policing activity in line with the national action plan.

A Partners Group has also been established comprising of representatives from third sector organisations with experience and expertise in HBV, FM and FGM. This group is used on a consultancy basis and is called together as required, allowing Police Scotland to obtain the valued views and opinions from partners on HBV, FM and FGM matters.

To improve the police response to HBV, FM and FGM, comprehensive training and awareness raising continues to be delivered to probationary officers as well as frontline and specialist officers. An annual conference is held at the Scottish Police College to promote awareness and understanding, engagement with partners and share best practice and learning points.

A Standard Operating Procedure has been introduced providing officers with advice and direction when dealing with HBV, FM or FGM incidents, including risk assessing and safety planning.

Police Scotland has introduced a national Vulnerable Person Database (VPD). Where concerns have been identified in respect of children and adults, they are recorded, risk assessed and shared with relevant partners. Any concerns identified to Police Scotland in respect of a child or adult at risk of HBV, FM or FGM will be entered onto this database and this will contribute to establishing the extent of HBV, FM and FGM incidents reported to Police Scotland.

A national FGM register has been established, indicating that since the 1 April 2013 there have been 14 referrals submitted to Police Scotland relating to 16 children at risk of FGM. These referrals have been investigated and whilst no criminality was identified interventions have been made on a multi-agency basis to reduce the risk to the children concerned.

I am supportive of the work being undertaken by the Equal Opportunities Committee in respect of FGM and have nominated Detective Superintendent William Guild and Inspector Nadine Aliane to attend the Committee on the 19 June 2014 to represent the Police Scotland position.

Chief Superintendent Lesley Boal
on behalf of Malcolm Graham, Assistant Chief Constable
Police Scotland
16 June 2014

Equal Opportunities Committee
Gypsy/Traveller inquiry responses
Note by the Clerk and SPICe

Background

1. In December you asked the Scottish Government for an update on progress against recommendations made in your *Gypsy/Travellers and Care* and *Where Gypsy/Travellers Live* inquiry reports. Their response¹, along with recent updates from MECOPP and the Grampian Council for Regional Equality (GREC), is annexed.

Key points

2. The Scottish Government's response is broadly positive and there is a commitment to take action under most of the Committee's recommendations. However, no timescales are identified.

3. The key points from the *Where Gypsy/Travellers Live* response are—

- In terms of leadership and the recommendation of one Minister having an over-arching responsibility for Gypsy/Travellers, the Scottish Government said that the Minister for Commonwealth Games and Sport has portfolio responsibility for equality, and that issues face by Gypsy/Travellers cross a number of portfolios, and therefore Ministers will continue to work collaboratively.
- In response to the Committee's call for a national action plan, the Scottish Government refers broadly to a strategic framework and action plan for Gypsy/Travellers. Issues that fall within this framework are:
 - Working with COSLA
 - Consultation with Gypsy/Travellers
 - Guidance for local authorities on the multiple options available for site provision, eg unblocking stopping places, developing transit and permanent sites and effective management of temporary sites
 - The role of GTLOs
 - Hand-held health record (in response to the Care inquiry)
 - Cultural awareness training (in response to the Care inquiry)
- Work will be undertaken on a bespoke campaign to tackle discrimination against Gypsy/Travellers.
- The Gypsy/Traveller Site Working Group will consider the need for a required standard for site facilities, and tenancy rights comparable to the Scottish Secure Tenancy Agreement.
- The Scottish Government has been reviewing Housing Need and Demand Assessment guidance and efforts have been made to consider the needs of Gypsy/Travellers. This was published June 2014.
- In response to re-opening local stopping places, the Scottish Government said this is the responsibility of individual local authorities.
- Set up of a Scottish Traveller Education Review Group - a short life group to bring together advice and guidance for local authorities and schools on dealing with some of the challenges they face.

¹ This was originally forwarded in February but did not reach the clerking team due to technical issues. The response was received successfully in late-May.

- In terms of GIRFEC, the Scottish Government plans to consult Gypsy/Travellers when developing guidance for the Children and Young People (Scotland) Act 2014.

4. The key points the *Gypsy/Travellers and Care* response are—

- A revised GP registration includes explicit instruction that GP registrations apply equally to Gypsy/Travellers and the settled community. It is made clear that there is no requirement that a patient must live in the practice area.
- In terms of maternity services, Health Boards have been provided with practical support and tools to engage and communicate with their local population to improve antenatal booking rates by the 12th week of pregnancy. Materials are being rolled out across Scotland and these are being displayed in a variety of settings rather than traditional health settings.
- Reference is made to a review of the hand-held health record which the Scottish Government said it would consider as it takes forward the strategic framework on Gypsy/Travellers.
- There are protocols in place with local authorities to enter into transitional arrangements when a person receiving care moves to a different location. The Scottish Government said it would work with COSLA to ensure local authorities are encouraged to set up voluntary systems to work together to carry out assessments in advance of the person being physically present.
- Carers Scotland and MECOPP have been commissioned to produce a Carers' Rights Charter – due Spring/Summer 2014.
- The Scottish Government is investing £13m between 2010 and 2015 for short breaks for carers and young carers to be provided by the voluntary sector. In order to encourage future funding applications from the Gypsy/Traveller community, an advert was placed in the Travellers Times promoting the Take a Break Fund.
- Will work with MECOPP on understanding models of support that suits the Gypsy/Traveller lifestyle. This may lead to guidance, information and training for social work professionals.
- Work on adaptations is being taken forward by the Adapting for Change Advisory Group.
- In reference to the two systems of adaptation support for those living in privately owned trailers or chalets situated on sites owned by social landlords, the Scottish Government said that existing guidance was found to be fit for purpose.
- On terminology, the Scottish Government agrees to use the phrase Gypsy/Traveller rather than Gypsies/Travellers in its documentation.

5. MECOPP and GREC have provided updates detailing their involvement in the Scottish Government's work, and outlining feedback from the Gypsy/Traveller populations they work with on progress to date. Key points include—

- Both organisations highlight a lack of progress. GREC note that plans for a new site in the North East have been overturned, and mention a new bye-law restricting unauthorised camping.
- MECOPP express concerns that although the Scottish Government have set up working groups, these remain vague and do not seem to be engaging effectively with stakeholders or taking the recommendations from the Committee's reports into consideration. They also report increasing apathy amongst the Gypsy/Traveller population.
- Both updates suggest that, as your inquiries found, the majority of good practice is still driven by the voluntary sector.

Recommendations

6. Given that the working groups the Scottish Government mention are in their early stages, you may wish to—

- Seek, from the Scottish Government, details of work programmes (including timelines) for the working groups that have been set up, and further information on the proposed strategic framework for Gypsy/Traveller accommodation; and/or
- Consider at a later date whether to seek evidence from working groups and stakeholders on proposed action plans, with an emphasis on timescales; and/or
- Any other course of action you suggest.

Annexe A – Correspondence from the Scottish Government

February 2014

Thank you for your letter of 4 December 2013 to Margaret Burgess MSP, Minister for Housing and Welfare, requesting updates on progress made by the Scottish Government on recommendations in the Equal Opportunities Committee's reports on *Gypsy/Travellers and Care* and *Where Gypsy/Travellers Live*. I am replying as I have portfolio responsibility for equality, which includes overarching Ministerial responsibility for the Gypsy/Traveller community. I am grateful to the Committee for agreeing an extension to the original deadline for response.

As requested, I enclose an update on the progress we have made on the Committee's recommendations. The key points to note are that we are progressing work in key areas of interest to the Gypsy/Traveller community, with the establishment of the Gypsy/Traveller Site Working Group, with a remit to consider actions on site quality and management and tenancy agreements, and the Scottish Traveller Education Review Group, which will pull together advice and guidance for local authorities and schools on dealing with the educational challenges facing Gypsy/Travellers.

We are also undertaking work, both internally and with stakeholders, on the development of an overarching strategy and action plan for Gypsy/Travellers, building on existing work and drawing on the Committee's recommendations in both the *Gypsy/Travellers and Care* and *Where Gypsy/Travellers Live* Inquiry reports.

I hope that this information is helpful to the Committee.

Shona Robison

SCOTTISH GOVERNMENT UPDATE ON RESPONSE TO RECOMMENDATIONS OF THE EQUAL OPPORTUNITIES COMMITTEE: WHERE GYPSY/TRAVELLERS LIVE

This paper provides an update on progress made on recommendations in the Equal Opportunities Committee's report, *Where Gypsy/Travellers Live*.² The Scottish Government's made its response to the Committee in June 2013.³

1. Responsibility for support of Gypsy/Travellers lies across many government portfolios and local authorities and for this very reason we feel it is crucial that an existing Scottish Government minister is given a new specific and overarching responsibility for the on-going support and profile-raising of Gypsy/Travellers.

We agree with the Committee that there are wide ranging issues facing Gypsy/Travellers, and that responsibility for the provision of support and services lies with both central and local government. The Scottish Government is committed to taking forward work to tackle these issues. As noted in our previous response, the Minister for Commonwealth Games and Sport has portfolio responsibility for equality, and policy relating to Gypsy/Travellers has an important part in this portfolio. Having said this, the issues faced by Gypsy/Travellers cross a number of Ministerial portfolios, and Ministers will continue to operate collaboratively to progress this work.

² <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/61579.aspx>

³ http://www.scottish.parliament.uk/S4_EqualOpportunitiesCommittee/EOC_Where_Gypsy_Travellers_live_response.pdf

2. There is a very real possibility of increased apathy amongst the Gypsy/Traveller population. We therefore strongly recommend that the Scottish Government launch a national public awareness-raising campaign aimed at tackling discrimination and racism against Gypsy/Travellers as soon as possible.

We know that Gypsy/Travellers are subject to widespread levels of prejudice, discrimination and abuse and believe in the importance of eliminating racism and racial discrimination against their community. We acknowledge the importance of raising awareness of Gypsy/Traveller culture, the contribution made by Gypsy/Travellers to Scottish life, the difficulties they face and the need to tackle underlying prejudice. To that end, we are planning a bespoke campaign to tackle discrimination against Gypsy/Travellers, which will form part of a 'One Scotland' marketing campaign.

In addition, we have been working to develop a social marketing campaign on hate crime in collaboration with equality and other key stakeholders. There are two communication strands of this campaign: one aimed at the general public to educate and raise awareness of what a hate crime is and build confidence to encourage the reporting of any such crimes witnessed, and a second targeted to specific groups of people affected by hate crime, including people from minority ethnic communities, to provide reassurance of the Scottish Government and Police Scotland's zero tolerance of hate crime and encourage victims to have confidence to report them.

3. Although we appreciate that some progress has been made on past recommendations, it is clear that the level of progress actually experienced by Gypsy/Travellers is minimal. To this end, we recommend that the Scottish Government explore the suggestion of pulling together existing research in to a single national action plan which allows the flexibility for regional variations. For this, and other recommendations, we would expect the Government to agree with all those involved a firm time scale for any action plan and provide regular progress updates.

We agree that the Committee, in its different Inquiries on the needs of the Gypsy/Traveller community, has identified what needs to be done. We have made progress in some key areas with the establishment of the Gypsy/Traveller Site Working Group and the Scottish Traveller Education Review Group (see later recommendations for more information on these).

We have begun an internal dialogue, with a cross-government group, to consider the wider strategic agenda and the best mechanisms for delivery. Officials are also holding one to one discussions with a range of key stakeholders representing the interests of Gypsy/Travellers. This will form part of work to develop an overarching strategic framework and action plan for the long term, building on existing work and drawing on the Committee's recommendations in both the Gypsy/Travellers and Care and Where Gypsy/Travellers Live Inquiry reports.

We are allocating resources to a number of projects, which can help take work forward.

Our work to develop a strategic framework for Gypsy/Travellers is taking place within the context set by the Scottish National Action Plan for Human Rights (SNAP), which was launched in December 2013. SNAP establishes a vision of a Scotland where everyone is able to live with human dignity and commits partners to a "transformative programme of action", which includes agreed outcomes and strategic priorities designed to focus action on delivering these outcomes. The development of a strategic framework for Gypsy/Travellers also sits within our work to refresh the Scottish Government's wider approach to race equality, which is currently underway with our strategic partners.

4. There has been a failure of leadership on this issue at local, community and national level. Whilst we understand that regional situations vary widely, evidence strongly suggests a need for leadership from the Scottish Government in supporting the development of sites. We see this as being essential in supporting local authorities and elected representatives both in bringing sites to fruition and setting an example against discrimination.

The Gypsy/Traveller Site Working Group has now been established. This brings local and national Government representatives together to explore the most effective way to address issues around Gypsy/Traveller sites, in dialogue with representatives of the Gypsy/Traveller community and others. The Group's members include COSLA, members of the Gypsy/Traveller community, Police Scotland, and the Travellers Site Managers Association Scotland. It is chaired by a Scottish Government official, and its purpose is to consider the issues around Gypsy/Traveller sites highlighted in the Committee's report, and oversee the development of specific products to achieve the Group's desired outcomes.

5. It is clear that the North East still presents particular challenges both in developing new sites and improving community relations. We recommend that the Scottish Government consider piloting any new approaches in the North East.

As part of its work, the Gypsy/Traveller Site Working Group will be following up on the implementation of the Aberdeen & Aberdeenshire Gypsy/Traveller Issues Working Party. In light of what the Group finds, and its other work, we will consider whether any new approaches or products should be first piloted in the North East.

6. We were appalled by some of the standards we saw on sites, and disgusted that rent-paying tenants were faced with such bleak living conditions. We expect the Minister to find a way of establishing a required standard for site facilities, whether through statutory guidelines such as the SHQS or by some other means. As with other recommendations, work on establishing minimum standards should include the input of Gypsy/Travellers.

One of the outcomes the Gypsy/Traveller Site Working Group is seeking to achieve is that good quality pitches are available in suitable locations for members of the Gypsy/Traveller community. This is an area the Group will be taking forward work on, considering the current situation and the best way to address any problems (including the option of issuing updated guidance to local authorities).

7. We recognise that making planning applications can be challenging even before taking in to account the additional barriers of low-literacy and limited educational attainment. We commend the work of Planning Aid for Scotland and Article 12 in helping Gypsy/Travellers to engage with the planning process, and expect the Scottish Government to exercise continued support for such initiatives.

We are pleased to be able to support the work of Planning Aid for Scotland and Article 12. The Scottish Government has yet to finalise the detail of on-going funding for Planning Aid for Scotland into financial year 2014-15. The Committee's recommendation remains part of the government's consideration for such funding. We are also exploring other ways in which we can work with Planning Aid for Scotland to support Gypsy/Travellers.

The Scottish Government provides core funding for Article 12 from its Equality budget for 2012-15 and will consider funding for future years, as appropriate, when budgets are decided, following the next Spending Review. We are currently providing additional funding to Article 12 for a project with Planning Aid for Scotland to produce a training resource for

planning practitioners and other relevant individuals and organisations to support understanding of the needs of the Gypsy/Traveller community.

8 – 11. We welcome the Scottish Government's review of planning guidance for local authorities, but we are extremely concerned by the notion of "monitoring through dialogue" particularly in light of the fact that in the 4 years since the guidance was published there seems to have been little progress. We are disappointed that the housing needs assessment process in particular does not appear to have yielded results for Gypsy/Traveller people. Given COSLA's non-committal response to our call for evidence, we are unclear on the robustness of this approach, and strongly urge the Scottish Government to explore the following:

- **How it might effectively measure success in working with COSLA on implementation of guidelines;**
- **Whether a deadline on these measures of success, for instance three or five years, might be applied;**
- **What steps it might take if agreement cannot be found with COSLA on how to make progress;**
- **What options there may be, in this event, for the development of legislation.**

We will work closely with COSLA as we develop our overarching strategic framework and action plan for Gypsy/Travellers to ensure that we secure leadership and buy-in at both national and local level.

We are also working with COSLA to develop new guidance for a Housing Need and Demand Assessment (HNDA) and Local Housing Strategy (LHS). Both sets of guidance should be in place by Spring 2014 and will be aligned with new Scottish Planning Policy (also at the final drafting stage).

Scottish Planning Policy (draft) states that local authorities should identify suitable locations for meeting the needs of Gypsy/Travellers and to set out policies for privately owned sites. The development plan process should ensure the need for site provision for those already in the area and those who may arrive later is given full consideration.

The new HNDA guidance (draft) is now more robust in regard to the guidance given on the need to consider Specialist Provision of all types. Specialist provision includes the requirement for sites for the Gypsy/Traveller community. When the HNDA is assessed by the Scottish Government as being robust and credible, any omission in the consideration of the needs of Gypsy/Travellers will be highlighted through written feedback.

The new LHS guidance (draft) has a separate section stating what should be considered in relation to the needs of the Gypsy/Traveller community. The content has been agreed by both the responsible policy team and the SG Equality Unit. The content of each submitted LHS will be reviewed (the process for this is still to be agreed) but at this point comment can be made on how well the needs of Gypsy/Travellers have been considered/addressed and fed back to the local authority for further consideration.

Every effort has been made to ensure that all guidance being produced is aligned to convey a clear message on the requirement to consider fully the needs of the Gypsy/Traveller community.

12. We were disturbed by COSLA's response to our call for evidence, which gives the impression that it does not see its role as being to support local authorities during the planning process. We ask that COSLA clarify its position, and that local authorities, as far as COSLA's role allows, use COSLA as a forum for support and partnership.

This recommendation is for COSLA.

13. We acknowledge that, under the equality duties framework, all key public sector bodies, including local authorities, must publish a detailed set of equality outcomes by 30 April 2013. We look forward to reviewing and following up on the EHRC's analysis of published outcomes.

This recommendation is for EHRC. Between May and October 2013, the Equality and Human Rights Commission conducted 'Measuring Up?', a programme of work to monitor listed authorities' compliance with the Equality Act (2010) (Specific Duties) (Scotland) Regulations 2012.⁴ It set out actions to support listed authorities' to meet their public sector equality duty in Scotland.

In our Equality Outcomes and Mainstreaming Report, published in April 2013, we have identified an outcome relating specifically to Gypsy/Travellers: "Gypsies/Travellers experience less discrimination and more positive attitudes towards their culture and way of life by 2017". We are working to realise this outcome.

14. It is essential that Gypsy/Travellers, as site tenants, have the same rights and responsibilities as people living in fixed housing. We welcome the Minister's agreement on this, and expect that the Scottish Government will, as a priority, work with Gypsy/Travellers, local authorities, ACHA and Amnesty International on the development and implementation of a standard Gypsy/Traveller site tenancy agreement, containing as a minimum rights and responsibilities for all parties comparable to the Scottish Secure Tenancy Agreement.

One of the desired outcomes the Gypsy/Traveller Site Working Group is seeking to achieve is that local authority and Registered Social Landlord Gypsy/Traveller sites have a fair and easy to understand tenancy agreement, that reflects the requirements of members of the Gypsy/Traveller community. This is something the Group will explore further before deciding what methods would work best to achieve this aim.

15. We are not surprised to hear again following our *Gypsy/Travellers and Care* report that various approaches are being used, and recognise that no single approach should be prescribed, or indeed imposed, by local authorities. However, we are unaware of any review of the role since it was first proposed in 2001. We feel strongly that, where the role of GTLO is adopted, it should be done jointly between local authorities and site residents. We recognise that the establishment of residents' associations, such as the one at Dunchologan near Lochgilphead, could help remove undue obstacles to the appointment of Gypsy/Travellers as GTLOs.

We will consider the role of GTLOs, as part of our work to develop an overarching strategic framework, in collaboration with local government, GTLOs and Gypsy/Travellers.

16. We are concerned by the lack of response from COSLA on our recommended review of the role. We seek a commitment from COSLA to work on this issue, and urge the Scottish Government to engage with COSLA on the matter, with an emphasis on

⁴ <http://www.equalityhumanrights.com/scotland/public-sector-equality-duty/monitoring-and-enforcement/>

concerns that in some cases the GTLO role has been developed primarily in the interests of the local authority.

As noted above, we will engage with COSLA and local government as part of our wider work to develop a strategic framework for Gypsy/Travellers.

17. We are relieved to hear of the positive and progressive approaches being used by the police in the management of “unauthorised encampments”, and hope that the development of the single police force will strengthen these approaches. We recommend that the Scottish Government, in its support role for other statutory services, take further steps to encourage a similar approach for health, education, social work and other local authority departments through the review and development of guidance and template forms and letters designed with accessibility in mind.

We will seek to learn from and build on positive and progressive approaches being used across the public sector in taking forward work to develop a strategic framework and action plan for Gypsy/Travellers.

Our previous response to the Committee noted the progressive approaches being used by the police in relation to Gypsy/Travellers. Following this, the Scottish Government brought together a number of relevant stakeholders (standing members currently include COSLA, Education Scotland and the Scottish Traveller Education Programme) in September 2013 to review and build an accurate picture of the issues that are challenging equality of access to education for the children of Gypsy/Travellers in Scotland. The Scottish Traveller Education Review Group will be a short life working group with the aim and remit of pulling together advice and guidance for local authorities and schools on dealing with some of the challenges they face.

18. Overwhelmingly, we heard that service providers and local authorities would welcome transit sites, and that such an approach would even be favoured by community councils if locations were deemed appropriate. To our surprise, however, we heard an opposing view from many Gypsy/Traveller witnesses, which only serves to emphasise how little understanding of the community decision makers may have. We therefore urge the Scottish Government, in the development of any national strategy, to ensure that consultation with both local Gypsy/Travellers and those passing through the area is an essential feature in guidance issued to local authorities.

As noted in our previous response, the Gypsy/Traveller community, like any other, does not hold homogenous views. However, we hope that participation by the Gypsy/Traveller community will feature strongly in our work to develop an overarching strategic framework. We will work with our Analytical Services, as well as stakeholder organisations and Gypsy/Travellers to establish the best way of capturing as wide a range of opinions of both itinerant and settled Gypsy/Travellers as possible.

19. The possibility of reopening traditional stopping places must be explored. In many cases, given that we heard that stopping places may have been blocked off purely to appease the local settled community, physically reopening them could in practice involve a straightforward removal of the obstacles installed. We ask that the Scottish Government carry out a review of traditional stopping places, based both on local authority and police records and in consultation with Gypsy/Travellers and local communities to explore the possibility of unblocking sites and providing services where needed.

As noted in our previous response, we acknowledge the problem of a lack of stopping places. However, while the Scottish Government will contribute to any discussions on this issue, ultimately, the decision to re-open stopping places is one for the relevant local authority.

20. It is clear that regional approaches will need to vary. To this end, we expect that any national action plan the Scottish Government develops will suggest that local authorities use multiple options, including but not limited to: unblocking stopping places; developing both transit and permanent sites; effective management of temporary sites; and liaison with holiday park owners.

We agree that a variety of approaches is needed and will bear this in mind as we work to develop our strategic framework for Gypsy/Travellers.

21. Examples of good practice are extremely encouraging; however it is obvious that these are often localised and small-scale. We look forward to progress updates on the Scottish Government's on-going work, and expect it to continue to support voluntary organisations. We ask that, in moving forward, the Scottish Government explore how pilots and projects can be replicated, for instance by seeking out the involvement of other voluntary organisations to target areas with little engagement work to date.

The Scottish Government is committed to ensuring that the third sector is fully involved in the design and delivery of local services. In 2014-15, we will maintain our investment of £8 million to the 32 third sector interfaces across Scotland. Interfaces provide a single point of access for support and advice for the third sector within the local area. They provide a strong coherent and cohesive representation of the third sector with clear links to Community Planning Partnerships and Single Outcome Agreements.

Interfaces are funded to deliver the following four areas of activity across the whole local authority area:

- *Volunteering development*
- *Social Enterprise development*
- *Supporting and developing a strong third sector*
- *Building the third sector relationship with community planning*

Additionally, in 2014-15 the Voluntary Action Fund, on behalf of Scottish Government will deliver grant funding of over £1 million to local community grass-roots organisations to support and promote volunteering among a variety of groups, including Gypsy/Travellers.

22. The Scottish Government made a commitment in the past to develop an education strategy for Gypsy/Travellers, but there is a lack of evidence on this to date. However, we are pleased that the Minister shares our concerns for Gypsy/Traveller children, particularly in secondary education. We encourage the Scottish Government to explore the inclusion of positive, non-tokenistic representation of Gypsy/Travellers in the curriculum and create an action plan aimed at supporting the transition of young Gypsy/Travellers from primary to secondary education.

As noted above in relation to Recommendation 17, the Scottish Government has brought together a number of relevant stakeholders (standing members currently include CoSLA, Education Scotland and the Scottish Traveller Education Programme) as the Scottish Traveller Education Review Group with the aim and remit of pulling together advice and guidance for local authorities and schools on dealing with some of the challenges they face.

23. We also encourage the Scottish Government, more broadly, to explore how GIRFEC is effectively applied, across the spectrum, to Gypsy/Traveller children.

Scottish Government support for the implementation of GIRFEC and engagement with key stakeholder groups continues, with a focus on supporting changes in culture, systems and practice within Community Planning Partnerships. Once the Children and Young People (Scotland) Bill has completed its Parliamentary process, the development of the guidance will continue in an open and inclusive way reflecting the views and needs of stakeholders. This will include specific engagement with Gypsy/Traveller community representatives to ensure that their particular circumstances are reflected within the overall approach. The statutory guidance which will support implementation of the Bill's GIRFEC provisions should be finalised in Spring 2015.

In parallel to the development of the statutory guidance, work continues to identify and disseminate good practice via the Scottish Government website and other publications. While this has to date focused on examples of the general application of the approach, going forward we expect to feature examples of emerging practice with specific groups of children and young people, including Gypsy/Travellers.

February 2014

SCOTTISH GOVERNMENT UPDATE ON RESPONSE TO RECOMMENDATIONS OF THE EQUAL OPPORTUNITIES COMMITTEE: GYPSY/TRAVELLERS AND CARE

This paper provides an update on progress made on recommendations in the Equal Opportunities Committee's report, *Gypsy/Travellers and Care*.⁵ The Scottish Government's last response to the Committee was made in February 2013.⁶

1. That any individual could be turned away from what should be a free, universal healthcare system was one of the most alarming pieces of evidence we heard. We urge the Minister to report to us, clarifying what obstacles exist, on what steps can be taken to stop the practice of refusing GP treatment and/or registration to Gypsy/Travellers – and, indeed, to anybody who requires it, irrespective of background or housing arrangements.

At the time of our last response to the Committee, the GP patient registration form was being reviewed to improve guidance for General Practitioners, so that Gypsy/Travellers do not experience refusal of treatment or registration.

The revised registration form was issued on 6 June 2013 under Circular PCA(M)(2013)4 (Updated Application Form (GPR) to Register Permanently with a General Medical Practice).⁷ This Circular provides explicit instruction that Regulations relating to GP registration apply equally to members of the travelling and settled populations, and that there are no inherent obstructions which relate solely to the Gypsy/Traveller community. The Circular makes clear that there is no Regulation that a patient must live within a practice area and that, although an address with a post code is preferable, this only applies where it is a reasonable request, and the best description of a current location is acceptable.

2. We highly commend the work carried out by individual health care practitioners and voluntary services in developing health awareness initiatives and helping Gypsy/Travellers to understand the support available to them. We recommend that the Scottish Government and the NHS consider further how such initiatives can be

⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/54885.aspx>

⁶ http://www.scottish.parliament.uk/S4_EqualOpportunitiesCommittee/Gypsies_Travellers_response_to_EOC_recommendations_-_update_-_20_Feb_2013.pdf

⁷ [http://www.sehd.scot.nhs.uk/pca/PCA2013\(M\)04.pdf](http://www.sehd.scot.nhs.uk/pca/PCA2013(M)04.pdf)

repeated and maintained. Such initiatives should not overlook Gypsy/Travellers who travel, or Gypsy/Travellers living in bricks-and-mortar homes. We ask that for this, and all recommendations in this report, the Scottish Government report back to us on progress.

Addressing deprivation and health inequalities are key issues for the Scottish Government. Our overarching aim (20:20 Vision initiative) is that by 2020 everyone, regardless of whether they are a member of the settled or Gypsy/Traveller communities will be able to live longer, healthier lives in their own home or in a homely setting, regardless of whether this is a bricks and mortar house or not. Where we identify successful health awareness initiatives both within the settled and Gypsy/Traveller communities, we will of course incorporate these in to these initiatives.

The Scottish Government has an on-going commitment to Primary Medical Services and we have successfully reached a negotiated settlement with the Scottish General Practitioners Committee (SGPC) for the General Medical Services Contract in Scotland for 2014-15 that, along with delivering a commitment to continuous quality improvement in each GP practice, will have real benefits for patients including improved access.

GP time will now be freed up allowing more time to be spent with their patients and we have a commitment that all GP practices in Scotland will now undertake an annual assessment of current patient demand – assessing both met and unmet need. The results of this will be shared with patients and NHS Boards and be used as the basis for discussion to make any necessary changes/improvements.

3. Having heard evidence outlining negative effects of centralisation of midwifery services on the relationship of trust between Gypsy/Travellers and GPs, we call on the Scottish Government to review this aspect of Gypsy/Traveller healthcare. We ask the Government to establish a timetable for the review and to inform us of the timetable.

As previously noted, there is no Scottish Government policy to centralise midwifery services. Implementation of the Refreshed Framework for Maternity Care is in its third year. A package of measures to support NHS Boards implement the refreshed framework is in place, including workforce development, information and communication and data improvements and improving the quality of pathways of care. Additional financial resources to support NHS Boards were provided in 2011-12, 2012-13 and 2013-14.

The antenatal access HEAT target has been in place since April 2012, and Boards are being provided with practical support and tools to engage and communicate effectively with their local population to improve antenatal booking rates by the 12th week of pregnancy. This includes work by NHS Health Scotland to provide communications material for NHS Boards, which can be tailored to specific groups to encourage early engagement with antenatal services. These materials are currently being rolled out across Scotland, and Boards are being encouraged to work with partners to display the materials in a variety of settings, rather than traditional Health settings only. This work supports Boards in achieving the HEAT target, by enabling them to focus on communications strategies for those groups within communities who have traditionally booked later for antenatal care.

The Scottish Patient Safety Programme – Maternity Care Quality Improvement Collaborative, which launched on 7 March 2013, seeks to reduce inequalities in outcomes by providing a safe, high quality care experience for all women, babies and their families across all maternity care settings in Scotland. The revised Scottish Woman Held Maternity Record (SWHMR) has been in place since early 2012 and supports the aim of continuous, effective, assessment of health and social need in order to identify any prevention and early intervention actions needed before babies are born and in the early days of their lives

4. We welcome NHS Health Scotland's current review of the approach to general health care provision for Gypsy/Travellers, including the hand-held health records. We ask that the review take into account:

- **This report's recommendations on the provision of general health care, outreach services and support for staff.**
- **Alternative options for support, including the identification and provision of open-house or drop-in surgeries, and/or the development of a network through which GPs can share information regarding patients moving from one local authority to another.**

The review of health care provision, undertaken by NHS Health Scotland, was a small-scale snapshot of NHS Boards activity during November 2012 - January 2013. Eleven out of the 14 territorial NHS Boards participated in the review. Shetland, Western Isles and Orkney declined due to a lack of Gypsy/Traveller community in their area.

Twenty-two staff were interviewed, who engage with Gypsy/Traveller communities through direct patient care or a more strategic role. An additional three written submissions were also received.

*The final report, *Insight into the Use of the Hand-Held Record and other methods of NHS engagement with Gypsy/Travellers in Scotland*, was submitted to Scottish Government on 25 April and published online on 2 August 2013.⁸ It has been disseminated to participants, Board communications teams and wider network contacts.*

The project included an exploration of known community experiences of accessing general health care, outreach methods such as Keep Well and other peripatetic methods, and cultural sensitivity training options available and known to staff.

Some of the alternative options for support described included:

- *Four participants described offering clinics which were tailored flexibly to the needs of Gypsy/Traveller communities. For example, NHS Greater Glasgow & Clyde (GG&C) offer a two-hour clinic to Slovakian Roma mothers, led by their health visiting team, and a one hour clinic for Romanian Roma mothers. This team also ask to be copied in appointment letters so if the patient travels, they can let the service know.*
- *A participant working in the Edinburgh Access Practice accommodating homeless and Gypsy/Travellers also described their unique role in facilitating access to clinics.*

We will consider the findings of the review further, as we take forward development of our strategic framework for Gypsy/Travellers.

5. We seek assurance that the review takes into account our concerns that:

- **hand-held records were presented to health boards as a voluntary option during roll-out – the voluntary element should be aimed at Gypsy/Travellers themselves as opposed to health boards and GP practices;**

⁸<http://www.healthscotland.com/uploads/documents/21707-GypsyTravellerHandHeldRecordReport.pdf>

- the requirement for GPs to complete both the hand-held record and the standard medical record means that they might not offer them to new Gypsy/Traveller patients or refuse to accept them; and
- the awareness-raising planned during roll-out was not employed extensively enough to ensure support and understanding amongst GPs, and a rolling programme of awareness-raising was not planned to take account of staff turnover.

Interviews for NHS Health Scotland's review of healthcare provision presented each of the above concerns to the participants, for their agreement/disagreement:

- *Of the 22 responses, 14 answered the question on whether hand-held records (HHRs) should have been a voluntary option. Eleven agreed that the hand-held Records should not have been optional for Boards to use.*
- *Of the 22 responses, 14 answered the question about requirement to complete both HHRs and standard medical records. Eight agreed that, in their experience as practitioners working with GPs, completing the record was too time consuming.*
- *Of the 22 responses, 13 were able to answer the question about awareness raising. All agreed that GPs are unlikely to attend awareness raising events of this nature. Participants agreed the HHR had not been promoted through GPs, and staff turnover was not taken into account in any national follow up work supporting use of the HHR.*

We will consider the findings of the review further, as we take forward development of our strategic framework for Gypsy/Travellers.

6. We welcome the Minister's recognition that health information about Gypsy/Travellers must be consistent, wherever they access health services. However, we are concerned about the Edinburgh Access Practice's finding that Gypsy/Travellers' unique health needs are not being met. Without a better understanding of those needs and a culturally sensitive approach to general health, there will be inevitable barriers in providing care. We recommend that the Scottish Government and its agencies:

- work in conjunction with the Edinburgh Access Practice (EAP) and other outreach services in identifying further areas for research, similar to that already carried out by the EAP, into the specific health needs of Gypsy/Travellers.
- work closely with Gypsy/Travellers to:

a) better identify the root causes of specific health issues experienced by Gypsy/Travellers;

b) identify preventative approaches; and,

c) establish areas of treatment that may require specific adjustments for cultural reasons

Two members of staff linked to the Edinburgh Access Practice were interviewed as part of NHS Health Scotland's review of healthcare provision. Their comments are captured within NHS Lothian summary (Appendix 5, page 76).

A meeting was also held between NHS Health Scotland and the Edinburgh Access Practice in December 2012 to discuss further areas benefiting from future research in relation to identifying the root causes of health issues of Gypsy/Travellers, preventative approaches and adjustment of treatments for cultural reasons. The discussion is summarised on page 82 of the review report. Community engagement required with Gypsy/Travellers was outside the scope of a short study of models of engagement and would form part of a further, in depth research study, requiring funding and gaining ethical permissions.

We will consider the findings of the review further, as we take forward development of our strategic framework for Gypsy/Travellers.

7. We are looking further at living conditions in our Where Gypsy/Travellers Live inquiry and would anticipate that the Minister for Public Health will take account of the effect of living conditions on Gypsy/Travellers' health, both physical and mental.

We recognise the links between living conditions and health. In light of the recommendations the Committee made in its report, Where Gypsy/Travellers Live, we have established a Gypsy/Traveller Site Working Group, which will discuss the most effective way to address issues around Gypsy/Traveller sites.

8. Although we acknowledge that an assessment of care needs is required for all cared-for individuals – and can take some time – we believe that the increased difficulties that delays in the process can cause for Gypsy/Travellers who travel must be addressed. That the single-shared assessment, which should be portable, may not apply once a Gypsy/Traveller has moved to a new local authority area is unacceptable. We call on the Minister to establish why that occurs and take steps to address the problem and to provide us with an update on progress towards making portability of care a reality.

As previously outlined, we agree that those eligible for social care should have the support they require determined following an assessment under the Social Work (Scotland) Act 1968. Single shared assessment aims to ensure that information is shared between health and social care partners and to provide a holistic approach to developing the individual's support.

We understand that it is difficult for people to move if they are not sure that the care services they need will be in place when they move. We, therefore, developed, and currently have in place, protocols encouraging local authorities to enter into transitional arrangements to help facilitate moves. These are contained in CCD 3/2010 – Guidance On The Recovery Of Expenditure On Accommodation And Services Under Section 86 Of The Social Work (Scotland) Act 1968 – Ordinary Residence.⁹ We will work further with COSLA to ensure that local authorities are encouraged to set up voluntary systems to work together to carry out assessments in advance of the person being physically present.

Our consultation on carers legislation, which issued on 22 January, includes a section on portability of assessment and seeks views on further work by the Scottish Government and COSLA.¹⁰ The deadline for responses to the consultation is 16 April.

9. We welcome the Minister's comments about the care portability working group. However, we recommend that, if Gypsy/Travellers have not been directly consulted during the course of that group's work that their views be sought on any actions or

⁹<http://www.scotland.gov.uk/Topics/Health/Support-Social-Care/Financial-Help/OrdinaryResidence/Determinations/CircularCCD32010>

¹⁰<http://www.scotland.gov.uk/Publications/2014/01/4757/downloads>

initiatives arising from the group's recommendations. We also recommend that any changes in guidance ensure that individual needs are taken into account and that the approach to self-directed support does not become prescriptive.

As noted in our update on the Committee's report on Where Gypsy/Travellers Live, we will ensure that we work with Gypsy/Travellers to develop a strategic framework.

More information on self-directed support is provided in our update on Recommendation 14.

10. We note that one of the main roles of voluntary organisations supporting Gypsy/Traveller carers is in helping them to understand what support they are entitled to. We believe that such advice for Gypsy/Travellers should also be built in to the health and social care system, including provision of the advice in an appropriate, accessible format. We ask that the Minister investigate the matter further.

This is an important recommendation. Voluntary organisations, local authorities and Health Boards all have crucial roles in supporting carers. The Carers Strategy, Caring Together, is clear that its actions apply to all carers.

We have commissioned Carers Scotland and MECOPP to produce a Carers' Rights Charter. The Charter, which will be distributed to all local authorities and Health Boards and others including carers, will make clear that there are groups of carers, including Gypsy/Travellers, who need advice, information and support. We are aiming to publish the Carers' Rights Charter in Spring/Summer 2014

We will also consider these issues review further, as we take forward development of our strategic framework for Gypsy/Travellers.

11. We note the view expressed by some witnesses on the removal of ring fencing of funds having an effect on support available to carers. However, we understand that local authorities and NHS boards still have statutory obligations to children with disabilities and we ask, therefore, for details of and reasons for any unmet need.

As previously noted, there has never been ring-fenced funding within local authorities' expenditure lines for support to carers. The Scottish Government does not hold specific details of unmet need. Addressing unmet need is a matter for local authorities, NHS Boards and other local partners.

The Scottish Government is investing over £13 million between 2010 and 2015 for short breaks for carers and young carers to be provided by the voluntary sector. A large portion of this funding is for disabled children with complex needs up to their 21st birthday and their parent carers, administered through the Better Breaks Fund and Take a Break Fund. The aim of these two funding programmes is to provide short breaks to disabled children and young people and their families. A few families within the Gypsy/Traveller community have benefitted from such funding.

In order to encourage future funding applications from the Gypsy/Traveller Community, an advert was placed in the Travellers Times promoting the Take a Break Fund. Future rounds of the Better Breaks Fund will also encourage applications that reach out to families from the Gypsy/Traveller communities. The application form and guidance now refer specifically to Gypsy/Travellers.

12. It was clear that cultural sensitivities might be overlooked when providing care for Gypsy/Travellers. We are concerned that the level of cultural competence displayed

when working with other black and ethnic minority groups is not routinely matched by providers when working with Gypsy/Travellers. To this end, we recommend that the Scottish Government take steps to ensure that any gaps in cultural awareness training are addressed.

Provision of all types of cultural awareness training for providers of care is a matter for NHS Scotland and local authorities. NHS Health Scotland's review of healthcare provision found:

- Very few examples of staff training to improve understanding of the culture of Gypsy/Travellers were described by participants, beyond an acknowledgement that Gypsy/Travellers were referred to in generic Equality and Diversity training/impact assessment processes.*
- Nine participants stated that they had received no training about the needs or culture of this group.*
- Three individuals recognised that they themselves were sources of tacit knowledge and they would offer advice to other professionals from time to time, but mechanisms for the capturing/sharing of this learning had not been formalised.*
- Many participants commented on the need for training for professional and support staff in areas such as myth busting, understanding needs and what to do differently to improve service delivery and engagement with Gypsy/Travellers.*

We will consider the findings of the review further, as we take forward development of our strategic framework for Gypsy/Travellers.

13. We also recommend that NHS Health Scotland and professional bodies within the health and social work sector ensure that any guidance issued relating to cultural competency covers working with Gypsy/Travellers.

Information on health issues affecting Gypsy/Travellers and links to research and resources are now available from NHS Health Scotland's website, which has been promoted to the NHS Equality and Diversity network and MECOPP.¹¹

Gypsy/Travellers are highlighted within refreshed Health Inequalities Impact Assessment (HIIA) guidance and work in NHS Boards on equality outcomes. Health Inequalities Impact Assessments have been carried out on a number of Scottish Government policies, where Gypsy/Travellers have been given some consideration, e.g. the Health and Social Care Integration consultation and Health Literacy Action Plan.

14. We were shocked to hear of Gypsy/Travellers feeling that they had no choice other than to settle in housing away from their own communities to access care services, especially given the subsequent detriment to their own health and well-being. We feel strongly that Gypsy/Travellers should not have to abandon their traditional lifestyle and become cut-off from their culture to be able to, for instance, attend regular hospital appointments or secure appropriate adaptations. We therefore recommend that, in establishing care programmes, practitioners should work in partnership with Gypsy/Travellers to find a model of support that suits their existing lifestyle. We hope that improving portability of care through improvements to self directed support and the single-shared assessment will support this recommendation.

¹¹ <http://www.healthscotland.com/equalities/race/gypsiestravellers.aspx>

As the Committee will be aware, the main mechanisms by which a person can take on direct control of their support (i.e. to obtain self-directed support (SDS) are direct payments (DP) and individual service funds (ISF). However, the DP and ISF can only be provided following a community care assessment, where the assessment has concluded that the person has eligible social care needs. As such, SDS options are subject to the same legal and practice framework on portability as the more traditional forms of community care support.

The Scottish Government agrees that in establishing care programmes, practitioners should work in partnership with Gypsy/Travellers to find a model of support that suits their existing lifestyle. A social care package provided under the SDS model can provide a range of benefits to Gypsy/Travellers with eligible social care needs. In particular it can provide Gypsy/Travellers with the opportunity to have greater choice, control and flexibility in relation to their funded care and support. The social work function can also benefit because they can use the SDS approach as an alternative to the more traditional form of service provision, meeting their social care responsibilities in new and innovative ways.

The Social Care (Self-directed Support) (Scotland) Act 2013 received Royal Assent last year. It is due to come into force in Spring 2014. The Scottish Government continues to work in partnership with COSLA, local authorities, providers and user and carer groups to deliver the ten year strategy on self-directed support. This includes the provision of grant funding for SDS-related transformation activity to local authorities, providers and support and information organisations.

One of the funded projects is MECOPP's project on SDS and Gypsy/Travellers. The aims of this project are:

- to increase the evidence base on SDS and its applicability within the Gypsy/Traveller community;*
- to identify support needs to enable successful take-up and use of SDS;*
- to increase awareness and take-up of SDS within Gypsy/Traveller communities within partner local authorities;*
- to increase the availability and range of innovative service models which meet the specific needs of BME direct payment recipients;*
- to increase the capacity of mainstream support organisations to support Gypsy/Travellers; and,*
- to increase opportunities for transferable learning across Scotland.*

The Scottish Government will work with MECOPP to share the learning from this project with national partners including ADSW, COSLA and national provider organisations. The learning from the MECOPP project can contribute towards further improvements to local guidance, information and training to social work professionals.

15. We were horrified to hear of the various delays experienced by Gypsy/Travellers in securing necessary adaptations. We welcome the establishment of the aids and adaptations working group, and urge the Minister to ensure that its work covers a comparison against the overall average waiting times for aids and adaptations and investigation into extensive delays.

As noted previously, Scottish Ministers agreed to take forward recommendations made by the independent Adaptations Working Group in its final report. This included a fundamental change from the current tenure based arrangements to a person centred approach to the delivering and funding adaptations.

The Adapting for Change Advisory Group began work to take forward the recommendations in October 2013. It is anticipated that that this work will be completed in 2015-16 and will

include demonstration sites to monitor and evaluate the recommendations made and full consultation on the draft guidance.

16. We suggest that the working group take into account the expertise of Gypsy/Travellers and their carers, and consult with them accordingly. To support this, we recommend the establishment of a forum whereby social work professionals, occupational therapists and manufacturers can work with Gypsy/Travellers to develop aids and adaptations better suited to trailers and chalets, as well as trailers and chalets designed with accessibility in mind.

As with the previous and next recommendation, this work is on-going, although it would be more appropriate for COSLA to take forward a forum of this nature.

17. The fact that privately owned trailers or chalets situated on sites owned by councils and housing associations fall between two systems of support - private owner grants and council-funded aid - is not acceptable. We recommend that the Scottish Government and COSLA establish clear guidelines on which adaptations fall under each form of funding, and work with social care providers and Gypsy/Traveller liaison officers in ensuring that the appropriate support is available in helping Gypsy/Travellers apply for adaptations. As stated in our other recommendations, there should be an emphasis on ensuring consistency across all local authorities.

As noted above, the Adapting for Change Advisory Group has been established to take forward the recommendations of the Adaptations Working Group.

Following consultation with local partnerships, an initial review of guidance on equipment and adaptations was carried out. However, it was felt that the guidance was still fit for purpose and no fundamental changes were required at that time. The guidance will be kept under review and, should any changes be required, we will consider the issues for Gypsy/Travellers at that point.

18. We were appalled to hear of discrimination against Gypsy/Travellers amongst support workers and lack of acceptance of the community as a distinct ethnic group. As stated in paragraph 72, the Scottish Government must continue to support awareness-raising and cultural competency initiatives to help combat this.

The Scottish Government has always been clear that it recognises Gypsy/Travellers as a distinct ethnic group and it encourages others to do the same. We also acknowledge that Gypsy/Travellers are one of the most disenfranchised and discriminated against groups in Scotland.

Our Equality Outcomes and Mainstreaming Report, published in April 2013, includes an outcome relating specifically to Gypsy/Travellers: "Gypsies/Travellers experience less discrimination and more positive attitudes towards their culture and way of life by 2017."

We are also planning an overarching 'One Scotland' marketing campaign, which will include a bespoke campaign to tackle discrimination against Gypsy/Travellers.

19. One of the main barriers for Gypsy/Travellers in increasing their own ability to interact with the health and social care system is low levels of literacy and education. We therefore recommend that the Minister for Education and Young People acknowledges this and ensures the inclusion of Gypsy/Travellers in forthcoming outreach and adult learning strategies.

The Cabinet Secretary for Education and Lifelong Learning has established and chairs a Strategic Forum for Adult and Lifelong Learning to 'take forward a coherent and ambitious agreed policy in a sector that needs renewed attention'.

This strategic group is developing a Statement of Ambition for Adult Learning and an implementation/action plan to underpin the Statement of Ambition. When the implementation plan is developed, the barrier identified above will be included as part of the actions that need to be undertaken.

20. The traditional model of care-in-the-family described to us by Gypsy/Travellers is a positive approach which should not be prevented by bureaucracy. As such, we recommend that in reviewing models of support and care provision NHS Health Scotland ensure that enabling shared care be taken into consideration alongside other culturally sensitive approaches.

Participants in NHS Health Scotland's review of healthcare provision described very few insights into models of care in the family:

- Seven out of 22 respondents were aware of the MECOPP Hidden Carers Unheard Voices report, which highlights the views and experiences of Gypsy/Traveller carers in three areas of Scotland. Although there was limited awareness of the needs of family members having a caring role in Gypsy/Traveller communities, several participants acknowledged the requirement to be better able to understand needs and provide support.*
- Staff mentioned the difficulty of knowing who a carer is, as this isn't often recorded by GPs, and NHS staff are heavily reliant on some voluntary organisations.*
- Further research would be required to learn more about how the preferred models of caring for a family can be embedded in mainstream service provision.*

We will consider the findings of the review further, as we take forward development of our strategic framework for Gypsy/Travellers.

21. We recognise the impact that MECOPP has had on the lives of the Gypsy/Travellers it has worked with, and are encouraged to hear that it obtained funding for a further three years in April 2012. One thing that has been clear to us throughout our work with MECOPP is the value of the awareness-raising sessions they run with Gypsy/Traveller trainers, in particular in their ability to dispel common misconceptions and give key support workers the opportunity to meet Gypsy/Travellers and hear their stories. Therefore, we recommend that the Scottish Government support the continuation and expansion of MECOPP's exemplary work when funding is due for renewal in 2015.

As noted previously, the Scottish Government currently provides MECOPP with funding for projects supporting the Carers and Young Carers Strategy, self-directed support and community development to build capacity, develop skills and tackle inequalities.

While we are not yet able to make any funding commitments beyond 2014-15, we will consider any future funding proposals and will try to support the continuation and expansion of their work.

22. We also recommend that other voluntary sector organisations draw on MECOPP's work with the aim of developing a network of expertise able to support both

Gypsy/Travellers and health and social care workers across Scotland. This should include exploring alternative approaches to support such as tele-health models.

We will liaise with partners and stakeholders to ensure that voluntary organisations know about MECOPP and are able to draw upon their expertise and knowledge in this area. It would be helpful to have a wide network of expertise within the Third Sector in order to support Gypsy/Travellers and health and social care workers across Scotland.

We welcome the Committee's recognition that telehealth can be a viable option to support Gypsy/Travellers, where appropriate to do so, and would like to reassure the Committee that work is ongoing to expand the range of telehealth options made available by Health Boards and local authorities across the country. This work is for all client groups and is based on identified need by local health and social care practitioners.

Part of this includes the recognised need to raise public awareness more generally, and we will consider how we can highlight this work further, particularly as we take forward development of our strategic framework for Gypsy/Travellers.

We would also like to highlight that existing telecare solutions can be explored by local authorities as a means of supporting Gypsy/Travellers to remain within their own homes and communities following an assessment.

23. It is clear to us that one of the greatest barriers to supporting Gypsy/Travellers who travel is a lack of understanding about their lifestyle, population and travelling patterns. This means that the bi-annual count of Gypsy/Travellers carried out by the Scottish Government is unlikely to give an accurate picture of the population. We recommend that the Scottish Government commission a mapping exercise, as soon as is practicable and taking into account information from the 2011 census (which may itself not accurately reflect the size of the Gypsy/Traveller population), to better establish actual numbers of Gypsy/Travellers, popular travelling routes and population centres. We hope that such an exercise will help in establishing locations where:

a) increased training and support for key workers will be beneficial

b) new outreach services, community groups and health initiatives can be set up

c) additional permanent pitches/sites or temporary stopping places may be needed

In summer 2013, the Scottish Government reviewed existing and emerging data on Gypsy/Travellers in Scotland. The data sources considered included the latest Gypsy/Traveller counts and administrative sources in a number of policy areas including Education, Health and Justice.

A paper (Gypsies/Travellers in Scotland: Summary of the Evidence Base, Summer 2013) summarising the information available from these evidence sources was provided to the Equal Opportunities Committee and published on the Scottish Government's Equality Evidence Finder in August 2013.¹²

The new Ethnic Group question, which identifies Gypsy/Travellers as a separate category, is now being asked across official data sources and was asked for the first time in the Census in 2011. Initial results from the 2011 Census have already revealed that around 4,200 people identified as Gypsy/Travellers in Scotland. Key characteristics of these people, including on health, education, employment and housing, will be made available by National Records of

¹² <http://www.scotland.gov.uk/Topics/People/Equality/Equalities/GypsyTravellerScotland>

Scotland in 2014. The Scottish Government intends to produce an analytical paper summarising this information.

In addition, the Scottish Housing Regulator (SHR) will now monitor Housing Charter outcomes specific to Gypsy/Travellers through tenant satisfaction surveys and will also collect and make available data on site rents. Once the new and emerging Census and SHR data is explored, we will be able to gauge what information is missing so that we can consider how data gaps can be filled going forward.

24. Although we heard differing views on the ideal role of Gypsy/Traveller liaison officers (GTLOs), it is clear that in some cases these individuals have provided a great deal of support to Gypsy/Traveller carers in accessing health care services. We therefore recommend that all 32 local authorities review the role of GTLOs in partnership with Gypsy/Travellers to ensure consistency of support across Scotland. It should be borne in mind that in some cases a reduced level of interaction may be at the behest of local Gypsy/Travellers, however that this should not mean a higher level of support is not available to those who need or want it.

As previously noted, this recommendation is for COSLA to action.

25. We are extremely concerned to hear that, where there have been positive outcomes and successful engagement with Gypsy/Travellers during initiatives, there have generally been limited long-term results due to lack of on-going support. Most worrying is the effect this has had on the morale of Gypsy/Travellers, and their trust in both the Scottish Government and public services' ability to help them. We urge the Scottish Government and NHS Health Scotland, in developing any new engagement initiatives, to ensure that such initiatives are sustainable and plan for both the growth of communities and the transient nature of some Gypsy/Travellers' lives.

In taking forward work to develop an overarching strategic framework and action plan for Gypsy/Travellers, we will be seeking to highlight initiatives that have proved to be sustainable in the long term and the lessons that can be learned from them. We plan to engage with Gypsy/Travellers themselves throughout this work to learn from their experiences of what works and what does not.

26. We believe that one of the clearest ways to raise awareness of Gypsy/Travellers' health and social care needs and tackle discrimination is through clear leadership, both at a national strategic level and on a smaller scale within individual departments and practices. Nationally, we recommend that the Scottish Government continue to take into consideration the distinct needs of Gypsy/Travellers in ensuring that policies are open and accessible to all.

As noted previously, the Scottish Government, NHS Health Scotland and providers of health and social care take into account the needs of all members of the community when delivering policy and establishing strategies. As part of the broader work across government, agencies and partners, service providers will ensure that this continues to be the case, particularly through the use of EQIA/Health Inequalities Impact Assessment and against the backdrop of the implementation of the Public Sector Equality Duty.

27. We have heard of the positive benefits of clearly recognising Gypsy/Travellers as a distinctive group and establishing the term 'Gypsy/Traveller' as acceptable

terminology, however, more consistency is needed in the use of this terminology. We call on the Scottish Government to review the use of appropriate language within its own documentation to ensure that a strong example is set to other public bodies, and to conduct a review into other terminology related to Gypsy/Travellers to establish similar accepted terms as soon as is practicable. For instance, the term unauthorised camp' has negative connotations, and we hope that the Scottish Government will work with Gypsy/Travellers to agree on an acceptable term using positive language.

We agree with the Committee about the importance of consistency of language and that care needs to be taken to prevent negative connotations associated with careless use of language. As the Committee is aware, we have previously used the term, 'Gypsies/Travellers' in our documentation, following earlier consultation with the Gypsy/Traveller community. However, in order to achieve consistency and recognising the Committee's recommendation, we will now use the terms 'Gypsy/Traveller' or 'Gypsy/Travellers', as appropriate, unless requested to do otherwise by the community.

28. Good examples have been given of strong leadership at a management level, and we recommend that those delivering public sector services, including healthcare practices, and guidance issued by professional bodies, must ensure the following:

a) facilitating a flexible approach to working with individuals, which would benefit Gypsy/Travellers who may need more support in, for instance, understanding medication or form-filling

NHS Health Scotland's review of healthcare provision found some examples of flexible approaches:

- NHS Greater Glasgow & Clyde offer a two-hour clinic to Slovakian Romanian mothers, which includes a baby clinic and advice on form completion and registration.*
- Participants felt that flexibility in approaching Gypsy/Travellers has to be in place. For example, approaching the community in the environment they are comfortable in, in turn, encourages talking about sensitive issues such as mental health, sexual health, substance misuse.*
- Participants from all but three NHS Boards commented on their outreach work having a signposting role, e.g. in Ayrshire & Arran there is a referral pathway system where an e-mail from the homeless team will let a number of agencies e.g. environmental authority, legal team, housing teams, aware of a new Gypsy/Traveller family on a site.*
- Some GP practice and Keep Well staff in NHS Lanarkshire were aware of the barriers of low 'functional' literacy levels and provide one to one support as required, particularly with form filling, or explaining the process.*

We will consider the findings of the review further, as we take forward development of our strategic framework for Gypsy/Travellers.

b) taking a hard line on any discriminatory behaviour towards Gypsy/Travellers – such behaviour must be dealt with in exactly the same way as racial discrimination towards any other minority ethnic group;

All public sector organisations delivering public services are already required to fulfil these obligations and the vast majority do so. There is growing awareness of the specific situations of Gypsy/Travellers within mainstream equality action at NHS Board level, through

conducting Health Inequalities Impact Assessments (HIIAs)/ Equality Impact Assessments and through Gypsy/Travellers featuring in some NHS Boards equality outcomes, which should help to highlight where discrimination could occur.

c) ensuring that policies regarding GP registration and treatment take into account cultural sensitivities and do not indirectly discriminate against Gypsy/Travellers, for instance, by requiring a fixed address; and,

The requirements for managing patient lists, including registrations and removals, are set out in the NHS (General Medical Services Contracts) (Scotland) Regulations 2004 and apply equally to members of the travelling and settled populations. Regulations are clear that GP practices should only refuse a registration application if it has reasonable grounds for doing so which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition. As noted previously, the GP patient registration form has been revised, and guidance makes clear that, although an address with a post code is preferable, this only applies where it is a reasonable request, and the best description of a current location is acceptable.

d) encouraging cultural awareness through awareness-raising activities such as staff training and informal open days with Gypsy/Travellers where practitioners can get to know their local Gypsy/Traveller communities and establish what approach to care works best for them.

There was some suggestion from participants in NHS Health Scotland's review of healthcare provision that Gypsy/Travellers went to what were known to be more Gypsy/Traveller friendly practices. Areas of promising practice involving general practice identified by the research included:

- *NHS Tayside and NHS Lothian (Edinburgh Access Practice) GP practice models; and*
- *NHS Ayrshire & Arran and NHS Grampian interagency referral processes and protocols.*

Further exploratory work in this area could facilitate sharing the learning from these experiences.

The report of NHS Health Scotland's review of healthcare provision was published in August 2013, but further communications and work with NHS Boards on the recommendations or further research will be carried out in the context of the development of our overarching strategy and action plan this year.

February 2014

Annexe B – Correspondence from GREC

Update to the Equal Opportunities Committee

There have been several developments in recent months in Aberdeen City and Aberdeenshire relating to site proposals and unauthorised encampments.

Aberdeenshire Council site proposal

The most significant development in Aberdeenshire has been the decision at full council to block a proposal (in its current format) for a stopover site at Aikey Brae, a traditional stopping place for Gypsy/Travellers in the north of Aberdeenshire. The proposal recommended elected members “to consider the submission of a planning application for the development and management of a seasonal Gypsy/Traveller stopover site at Aikey Brae, Old Deer...”¹³.

Councillors voted 34 to 32 in favour of an amendment that called for a full strategy to be put in place for developing sites in Aberdeenshire. The councillor who raised the amendment was quoted in the local press as saying “[the development of a full strategy] will be a couple of years at the earliest. It has not been killed off entirely. It can reappear.” Council officers will go back to full council with another proposal in September.

Aberdeen City Byelaw

The main development in Aberdeen City has been the passing, by 28 votes to 12, of “a byelaw to prohibit unauthorised camping to various designated sensitive areas”¹⁴. Councillor Greig was quoted in the local press in favour of the bye-law as saying: “It’s about individuals who are behaving badly. Some are well behaved but we also have some individuals who are not and have flouted the law and made a mockery of our system of law and order in the city. We can’t tolerate that.” GREC spoke out in the media against the proposed byelaw and GREC’s response to the consultation document included the following:

...It is very doubtful whether the proposed Byelaw would have any positive impact and indeed it may prove counterproductive ... the root of the problem is that there are not enough authorised sites/encampments available for the Gypsy/Traveller community e.g.: the Clinterty site is not big/accessible enough to meet needs. The community is effectively left with no option but to camp at unauthorised sites-a Byelaw would not change this situation ... In order for relations to improve significantly and sustainably some form of increased site provision is necessary.

Recent GREC work in Aberdeenshire and Aberdeen City

GREC has been working with Planning Aid for Scotland, visiting authorised and unauthorised sites in Aberdeen City and Aberdeenshire to support Gypsy/Travellers who have a desire to develop their own private sites. GREC is also in discussion with Planning Aid for Scotland about how to support their “Young Placemakers as Change Makers”, with Aberdeenshire being one of the four areas they plan to work within.

Along with Community Learning and Development and NHS Grampian, GREC has been planning a programme of summer engagement with young people and adults on unauthorised and authorised sites across Aberdeenshire. The project will see a core team of

¹³ Report to Aberdeenshire Council “Proposal for a seasonal Gypsy/Traveller Stopover Site at Aikey Brae, Old Deer. Available online at: [https://www.aberdeenshire.gov.uk/committees/files_meta/802572870061668E80257CBC003BDB26/\(10\)%202014%2004%2024%20Council%20Report%20Aikey%20Brae.Final%20%2014.04.pdf](https://www.aberdeenshire.gov.uk/committees/files_meta/802572870061668E80257CBC003BDB26/(10)%202014%2004%2024%20Council%20Report%20Aikey%20Brae.Final%20%2014.04.pdf)

¹⁴ “Proposed Byelaw regarding Camping in Designated Places” available online at: <http://committees.aberdeencity.gov.uk/documents/s37829/Proposed%20Byelaw%20Regarding%20Camping%20in%20Designated%20Places.pdf>

NHS, GREC and CLD staff visiting families on site, as well as bringing in other services and individuals such as story-tellers, environmental artists and the SFA Equity scheme to work with members of the Gypsy/Traveller communities.

Aberdeen City CHP (NHS Grampian) have committed to another years funding of GREC's Gypsy/Traveller Health Engagement Worker. From April 2014 to April 2015 the project worker will be: continuing to engage with Gypsy and Traveller communities at Clinterty site and on unauthorised sites in the city, sign-posting to health services and undertaking informal health needs assessments to help inform the work of NHS Grampian; working with health partners to undertake research and pilot projects at three GP practices in the City, helping to promote a model of good practise in providing GP services to Gypsy/Travellers (the work will include involvement of Gypsy/Travellers to ascertain the range of experiences of individuals while in Aberdeen); continuing to facilitate engagement between preventative health services and Gypsy/Traveller communities in Aberdeen.

In addition GREC has undertaken some informal housing needs assessment work at Clinterty site, the site visited by the Equal Opportunities Committee last year. The feedback from residents will be addressed with officers from Aberdeen City Council.

Annexe C – Correspondence from MECOPP

MECOPP Update

June 2014

This update is based on our observations and informal discussions with members of the Gypsy/Traveller community living in Perth and Kinross, mid and north Argyll and the Lothians. It is not a comprehensive report, but rather a brief update on the progress, or otherwise, since the publication of the Scottish Parliament Equal Opportunities Committee Care and Accommodation reports.

1. Care Inquiry – since the ‘Gypsy/Travellers and Care’ report was published in 2012:

- **Training** - awareness-raising training led by Gypsy/Traveller trainers and MECOPP was provided free of charge to members of the Carers Trust Scotland (formerly The Princess Royal Trust for Carers). One session was held in Glasgow and one in Elgin, both sessions were well-attended and feedback was very positive.

- **Follow up** - no further contact has been received from the Carers Trust, nor any of the other national Carer organisations who gave evidence to the Inquiry. We are not aware of any additional targeted work with the community to address the issues raised in the report. We occasionally receive requests for help from individual carer centres in different areas of Scotland.

- **Good Practice** - we continue to have a very effective working relationship with North Argyll Carers Centre with a good exchange of skills and knowledge which is of great benefit to carers living in that area and we have observed an increased use of the full range of carer centre services. Similarly, in 2014 we held awareness-raising training for Carr Gomm staff and aim to closely work with them on their SDS Peer Support project in Argyll.

- **Self-Directed Support (SDS)** – in 2013 we received a small grant from the Scottish Government to carry out community-based research to establish:

- Current levels of awareness of SDS
- ‘Appetite’ to take-up SDS;
- Support mechanisms required to enable uptake;
- Potential barriers which may prevent uptake.

One of the greatest challenges of the research so far has been finding a way to talk about SDS in a way that is meaningful to Gypsy/Traveller carers. Most of those we work with continue to struggle with accommodation issues and experiences of discrimination, on top of the demands of being a carer, which means that they often do not have the time or energy to even think about SDS. Put simply, SDS is not a priority for many Gypsy/Travellers who are still struggling to manage various day-to-day challenges.

- **Attitudes** - another key challenge highlighted most recently by the SDS research concerns the prevalence of stereotyping and discriminatory attitudes among some professionals working on SDS and the way in which such attitudes can prevent Gypsy/Traveller carers from accessing SDS. There still is a tendency to perceive Gypsy/Travellers as a ‘*problem*’, and phrases such as, ‘*they’re hostile*’, or ‘*they’re hard-to-reach*’, have been repeated on numerous occasions. To address this we are in the process of developing a satirical cartoon book, using humorous sketches, to highlight some of the phrases that have been repeated by

professionals during the research period, e.g. *'Gypsy/Travellers don't engage'*, and attempts to show how this is impacting negatively on Gypsy/Travellers' ability to access support.

- **Social Work** - the same messages are coming from the SDS research and various consultations we have carried out in local areas around proposed changes to carer legislation - the majority of those we work with are not receiving any social care support and many remain reluctant to engage with social workers or ask for support. During the carer legislation consultation, for example, none of the carers reported positive experiences with their local authority, with many repeating the phrase, *"it's like hitting your head against a brick wall"*, and others feeling that they are blacklisted by the local authority. There is also concern about assessments being carried out by social workers and this is a major barrier to Gypsy/Traveller carers in accessing SDS and other services. Whether the assessment is renamed as a Support Plan or not is unlikely to make any difference to these carers. As one carer said, *"I never realised that being a carer meant taking on the council"*.

- **Portability** – similarly, our research suggests the issue of portability of assessment appears to be more of an issue for service providers and local authorities than it is for Gypsy/Traveller carers themselves. Many of those consulted are based in one area for the majority of the year (often because of ill-health or disability and lack of facilities on sites), so portability is not such a major concern for them. However, surveys and interviews with local authority staff and service providers show that they consider portability to be one of the main challenges when supporting Gypsy/Travellers. There is a danger that this becomes an 'excuse' for not providing services to Gypsy/Travellers – as one carer commented, *"there's an attitude of 'don't give them anything as they'll only move on after a while anyway'"*.

- **Hand Held Records** - in 2013 NHS Health Scotland carried out some research into the use of Hand Held Records (HHR) and other methods of NHS engagement. The research aimed to gather the perspectives of health professionals and they found *"the majority of participants believed HHRs to be ineffective due to many barriers to its use, partially in relation to confidentiality issues, ease of completion and its size"*. Various engagement methods were identified in the research with the most effective being *"those that took services to the communities and adapted them to community needs by way of outreach to authorised sites and temporary camps, targeted Keep Well health checks, tailored clinics and targeted health improvement activities."* However, practice varied greatly across the country and they concluded *"engagement with Gypsy/Travellers by the NHS might be strengthened and further developed if experience is shared across Scotland and strategic development is supported."*

2. Accommodation Inquiry - the 'Where Gypsy/Travellers Live' report was published in 2013, since then:

- The Equality Unit at Scottish Government has recently set up a Gypsy/Traveller Strategy Development Group and this group has met twice so far. The group's aim is to develop an overarching strategy and action plan for Gypsy/Travellers in Scotland, that supports:

- a reduction in discrimination against them and more positive attitudes towards their way of life;
- improvements in their quality of life and life outcomes;
- an increase in understanding of their needs among service providers and commissioners, which are addressed through provision of a national action plan to address identified needs; and
- an increase in mutual understanding and respect with the settled community.

The Equality Unit hope the action plan will be in place by spring 2015. Proposals currently being discussed include the production of a 'facts and fiction' type booklet to be sent to every elected member, combined with the offer of training led by community members. The development of a strategy is a positive step forward, albeit somewhat delayed, but for some participants there is a strong sense of 'déjà vu'. Arguably, there is also limited recognition that any strategy will need to be robust and hard-hitting with effective monitoring, timescales and resources. When asked for a comment for this update one Gypsy/Traveller remarked *"action plans are fine but it will sit on a shelf like the rest of them or actually be put into practice? Surely by now the Government has enough evidence about what needs to be done, can't they just get it done instead of endlessly talking, only then will Gypsy/Travellers like me start to take it seriously"*.

- **A Gypsy/Traveller Site Working Group** is also being led by the Housing Services and Regeneration Division of Scottish Government. Whilst MECOPP has been unable to attend either of the meetings held to date we are disappointed about the apparent narrow focus of this group and the absence of any Gypsy/Travellers. We are also deeply concerned about some of the content of recent papers circulated by the group that appear to indicate that many of the issues highlighted in the EOC report are neither acknowledged nor addressed in possible next steps. For example, it is stated that most local authorities reported their sites were of 'reasonable quality' and that guidance from 1997 is simply to be updated. In short, is this 'more of the same'? There is no mention of trying to improve tenancy rights, in line with the Scottish Secure Tenancy, nor any mention of involving Gypsy/Travellers in taking matters forward.

- **Housing Bill** - there is unfortunately no specific mention of the situation of Gypsy/Travellers in the proposed Housing Bill, nor any proposals put forward to address the significant inequalities experienced by Gypsy/Travellers and clearly identified in the 'Where do Gypsy/Travellers Live' report.

- **Site Update** – from some of the sites visited by Committee members:

- one worrying case we are currently dealing with illustrates the ongoing injustices faced by Gypsy/Travellers. In one council area, a decision has been taken to impose the 'under occupancy charge' on site tenants, even though tenants have no choice about the size of accommodation they are provided with, do not have secure tenancies, live in 'mobile homes' (usually exempt from the under occupancy charge) and no alternative 'culturally appropriate' accommodation is available in the area. To our knowledge, this is the only local authority to impose the so-called 'bedroom tax'. One tenant we work with, who is the main carer for a family member, is consequently threatened with eviction *"since giving evidence at the Parliament the council has put the rent up to over £103 a week and has applied the bedroom tax so I am now looking at being made homeless and my mother losing her main carer. For me things have got a lot worse"*.

- Similarly, whilst the short access road has been re-surfaced at another site, the re-surfacing is only on the access road and stops before actually reaching individual homes

- On another site, tenants mentioned some small improvements *"yes they were out last week painting the amenity blocks in the rain... just days before a visit by the Housing Minister. And a door has been put on the fire hose but the hose hasn't been actually been lengthened and plastic covers over the vents. Apart from that nothing has changed"*.

3. Concluding Thoughts

Elsewhere in Scotland, there may well be examples of good practice which have been developed since the reports were published. However, in our opinion, some of the issues detailed above yet again highlight an ever-widening gap, already noted in the two EOC reports, between what service-providers and policy makers 'think' the situation is and what the actual experiences of Gypsy/Travellers are.

Following publication of the two reports many of the Gypsy/Travellers we work with, who participated in the inquiries and gave evidence, felt listened to and hopes were running high. However, as one person said recently *"reality has now set in, nothing much has changed and what has been put in place is cosmetic or a just ticky box exercise. Yeah, develop a strategy but that shouldn't be the end of it?"*. Another person, when asked for an update, noted *"to be honest, I feel really disappointed after all the work we've done locally and nationally"*.

Michelle Lloyd
Programme Manager
MECOPP
June 2014

Equal Opportunities Committee

Note by the Clerk and SPICe on Petition PE1372

[PE01372](#) – Lodged 12 November 2010

Petition by Duncan McLaren on behalf of Friends of the Earth Scotland calling on the Scottish Parliament to urge the Scottish Government to clearly demonstrate how access to the Scottish courts is compliant with the Aarhus convention on 'Access to Justice in Environmental Matters' especially in relation to costs, title and interest; publish the documents and evidence of such compliance; and state what action it will take in light of the recent ruling of the Aarhus Compliance Committee against the UK Government.

Background

1. The Public Petitions Committee wrote to and received responses from the Scottish Government, on the issues raised by the petition. It referred the petition to the Equal Opportunities Committee (EOC) on 1 November 2011. The referral was made under the EOC remit of “social origin” i.e. in light of potential financial constraints to accessing justice on environmental matters. The relevant element of the Aarhus Convention, as highlighted by the petition, is the “Access to Justice” principle.

The “Access to Justice” pillar aims to provide access to justice in three contexts ([from SPICe briefing of 19 November 2010](#)):

- A person whose request for information has not been dealt with to their satisfaction must be provided with access to a review procedure before a court of law or another independent and impartial body established by law.
- Persons with sufficient interest in a proposed project or activity covered by the Convention must have a right to seek a review in connection with decision-making on that project or activity. The review may address either the substantive or the procedural legality of a decision, or both.
- Challenges to breaches of environmental law in general.

2. The EOC has corresponded with the Scottish Government and the Law Society of Scotland and has received updates from the petitioners since it was first referred.

3. Friends of the Earth Scotland wrote to the Committee on 15 May 2014 with further background (see Annexe). Their update briefing includes the following—

- A call for an environmental tribunal to be established.
- Detail of the Courts Reform (Scotland) Bill where the petitioners state that “its impact on key areas of Aarhus compliance, particularly costs and sufficient interest is very limited”.

- Concerns in relation to the application of the “sufficient interest” test in the Scottish courts.
- Concerns in relation to the Taylor Review.
- Scottish Legal Aid Board’s “introduction last year of a system whereby all the expenses of a judicial review to be covered by legal aid (including Counsel’s fees, solicitors fees and outlays) will be capped at £7000.” Friends of the Earth Scotland considers that “£7000 is an unrealistic figure to run a complex environmental judicial review”.
- Friends of the Earth Scotland considers that “the Scottish Government has continued to delay compliance with the Aarhus Convention in respect of key issues”.

Recent developments

4. The Committee agreed at its meeting of 9 May 2013 that it should keep the petition open in order that relevant issues could be monitored. There have been a number of policy developments since then, each of which has fallen within the remit of the Justice Committee.

5. The Justice Committee has considered a number of issues relevant to this petition during its consideration of the Courts Reform (Scotland) Bill including cost, sufficient interest and the matter of an environmental tribunal. The Justice Committee has also taken evidence on the Taylor Review.

6. In its Stage 1 Report on the Courts Reform (Scotland) Bill, the Justice Committee stated that it was sympathetic to calls for the introduction of an environmental tribunal for Scotland (paragraph 322).

Action

7. You are invited to consider what action you wish to take in respect of this petition. Options include—

(1) The Committee has fully considered the issues raised by the petition since its referral in 2011. The Justice Committee has taken forward a number of areas of work relevant to the petition’s subject matter. As such, the Committee may wish to write to the petitioners, and in so doing, close the petition.

or

(2) To take any other action which the Committee considers appropriate.

Annexe – Correspondence from Friends of the Earth Scotland

May 2014

Further to our correspondence of May 2013, I would like to take the opportunity to update you on matters in relation to our Petition (PE1372) on Aarhus Compliance.

Before we go into detail on key developments we wish to note that it is our position that despite the introduction of Protective Expense Orders and certain changes proposed under the Court Reform Bill, Scotland remains in breach of the Aarhus Convention and as a consequence faces, as part of the UK, action from the European Commission and the Aarhus Compliance Committee.

We consider that the Scottish Government could go some way towards Aarhus compliance by establishing an environmental tribunal. The Government pledged in its 2011 manifesto to consult on options for an environmental court or tribunal. We consider that this commitment would best be fulfilled by setting up an Expert Working Group to look into the issue.

We recommend that the Scottish Government is asked to appear before the Equal Opportunities Committee and explain how it will fulfil its legally binding international Aarhus obligations.

Court Reform Bill

In February 2014 the Scottish Government introduced the Civil Court Reform (Scotland) Bill. This is the legislation that the Government indicated in previous Petition correspondence would see to outstanding Aarhus compliance issues. While broadly we welcome the Bill, which implements many of the recommendations of Lord Gill's Review of the Scottish Civil Courts, its impact on key areas of Aarhus compliance, particularly costs and sufficient interest is very limited. This fact was acknowledged by the Justice Committee in its Stage 1 report on 9 May 2014 when it recommended:

322. The Committee notes the differences between the requirements of the Aarhus Convention and the scope of judicial review in Scots Law. The Committee is sympathetic to calls for the introduction of an environmental tribunal for Scotland.¹

Further, we are concerned that aspects of the Bill could actually exacerbate certain barriers to access to justice in environmental cases.

In particular, the introduction of a three-month time limit for Petitioners, where no time limit has previously been in place will cause problems for petitioners in complex cases and particularly where there is uncertainty in funding. There is a real issue in Scotland with a finding a solicitor able to act on a *pro bono*, reduced fee or legally aided basis, and the introduction of a presumptive three-month time limit will exacerbate this. It will also create a particular barrier for community groups who will

¹ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/76275.aspx#v>

find it extremely difficult to organise, develop collective understanding, agree a course of action and raise the necessary funds to go to court if that is their decision.

We note that there is often a considerable grey area as to when exactly the time limit starts from in respect of the exact decision to be challenged. Although we note there is a degree of flexibility is contained in the Bill, with the possibility for granting of extensions, a presumptive three-month limit is likely to put potential litigants off (a further 'chilling effect').² While we are broadly supportive of the

introduction of a leave to proceed stage for judicial review under the Bill, we note that there is a risk that combined with a three month time limit, a leave stage could actually hinder access to justice as petitioners struggle to access funds and lawyers to marshal the necessary legal arguments to satisfy the Court in order to gain leave to proceed.

Standing

It is welcome that the Court Reform Bill confirms the new test of 'sufficient interest' for petitioners seeking judicial review. We note that the problematic test of 'title and interest' was replaced with 'sufficient interest' by the Supreme Court in the landmark 2011 *Axa v Lord Advocate and others*³ ruling. Sufficient interest was the test recommended by Lord Gill, and in his Review of the Civil Courts he noted its broad interpretation in the English Courts. However we are concerned that the Scottish Courts are reluctant to apply the new test as fulsomely as is the practice in England and Wales.

In *Walton v Scottish Ministers*,⁴ the Court of Session's Inner House questioned not only his standing as a person aggrieved under statutory provisions in the Roads (Scotland) Act 1984, but expressed the view that he would not have had sufficient interest to take a judicial review on the same matter. On appeal the UK Supreme Court robustly criticised these comments.⁵

In September 2013 the Inner House overturned a ruling from the Outer House in *McGinty vs Scottish Ministers*, which had found against the petitioner on standing.⁶ While taking AXA into account, the Inner House indicated that it considered that petitioners ought to demonstrate sufficient interest on each individual argument in a case, rather than adopting the more expansive interpretation of the English and Welsh courts where legal standing is granted on grounds of public interest and is looked at more generally.

² See for example *Bova and Christie v The Highland Council and others* [2013] CSIH 41 <http://www.scotcourts.gov.uk/opinions/2013CSIH41.html> and also *R (on the application of Maria Stella Nash) v Barne London Borough Council & (1) Capita Plc (2) EC Harris LLP (3) Capita Symonds (Interested Parties)* [2013] WHC 1067 (Admin)

³ <http://www.supremecourt.gov.uk/decided-cases/index.html>

⁴ <http://www.scotcourts.gov.uk/opinions/2012CSIH19.html>

⁵ www.supremecourt.gov.uk/docs/uksc-2012-0098-judgment.pdf

⁶ <http://www.scotcourts.gov.uk/opinions/2011CSOH163.html> and <http://www.scotcourts.gov.uk/opinions/2013CSIH78.html>

Taylor Review

We note that the Taylor Review reported in September 2013.⁷ The Scottish Government has frequently indicated that this Review would mop up any outstanding issues regarding prohibitive expense in Aarhus cases.⁸ However, we met with the Secretary to the Taylor Review in February 2012 as part of its consultation process, who confirmed that the Taylor Review remit does not specifically extend to examining the obligations of the Scottish Government regarding expenses and funding of environmental litigation under the PPD or the Aarhus Convention.⁹ The Review does recommend extending PEOs to all public interest cases, which of course could in theory cover many Aarhus cases not within the remit of the PPD and therefore not eligible under the new rules of court on PEOs. However, Taylor strongly implies that EU law consider Aarhus cases to be defined by the PPD, and also his recommendation makes it clear that granting of PEOs and the level of cap is to be left to judicial discretion where not governed by specific rules of court.¹⁰

CJEU ruling in EU vs UK

In February 2014 the European Court handed down its long awaited ruling in EU vs UK, and found cost regimes in the UK to be in breach of the access to justice provisions of the Public Participation. While the case focussed on examples from England and Wales, in certain key respects the Scottish cost regime is even worse.

As this Committee will be aware, in 2013 the Scottish (and rest of UK) Government(s) codified rules of court on Protective Expense Orders, capping the costs certain groups would be liable for in going to court to £5,000, as a result of these EU infraction proceedings. It is too soon perhaps to judge the success of this important mechanism, particularly in terms of its downward flexibility for applicants for whom the cap is too high, its application by the Courts with regard to NGOs and how appeals are dealt with under the new regime.

However, whatever the eventual success of this particular mechanism, the cost regime as a whole remains prohibitively expensive for most individuals, communities and NGOs. Litigants still have to raise their own legal costs which for a complex judicial review, accounting for lawyers and court fees can add up to tens of thousands. As evidenced in previous petition correspondence, Legal Aid is all but impossible to access for an environmental case with public interest implications.

The long term difficulties in obtaining legal aid for environmental cases in Scotland¹¹ have been exacerbated by the Scottish Legal Aid Board's introduction last year of a system whereby all the expenses of a judicial review to be covered by legal aid

⁷ <http://scotland.gov.uk/About/Review/taylor-review/Report>

⁸ Scottish Government consultation on Legal Challenges, 25-29 'The [Taylor] review...will look among other things at the cost and funding of public interest litigation, including environmental actions' <http://www.scotland.gov.uk/Publications/2012/01/09123750/2>

⁹ Confirmed in email correspondence with Kay McCorquodale, Secretary Taylor Review, 15 March 2013

¹⁰ Taylor Review Chapter 5, paras 29 and 33

¹¹ As a result of Regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002, which effectively prevents applications for public interest cases which most environmental Aarhus cases would be

(including Counsel's fees, solicitors fees and outlays) will be capped at £7,000.¹² We think that £7,000 is an unrealistic figure to run a complex environmental judicial review. While applications can be made to increase the cap, this system is likely to further lessen the number of solicitors willing to act in this area as they run the risk of incurring liability for counsel's fees and outlays which are not covered by the level of the cap particularly in a fast moving litigation, when it can be difficult to anticipate all costs in advance.

Meeting of the Parties to the Aarhus Convention

The 5th Meeting of the Parties to the Aarhus Convention is due to take place in June in Maastricht. At this meeting Decision IV/9i, which found the UK to be in non-compliance with the Convention in 2008, will be reviewed, and Parties will consider whether compliance in the UK has improved sufficiently, and whether to issue a second decision against the UK. Friends of the Earth Scotland continue to liaise with the Convention secretariat regarding Scottish specific aspects of UK compliance.

Next steps for Petition

As noted above, we consider that the Scottish Government has continued to delay compliance with the Aarhus Convention in respect of key issues. Therefore we recommend that the Committee ask the Government to appear before it and describe how it plans to deal with these outstanding issues.

Please do not hesitate to get in touch if we can be of any further assistance in the Committee's deliberations on our Petition.

¹² http://www.slab.org.uk/common/documents/profession/mailshots/2013/Cost_Limitations_Mailshot_-_27_February_2013.pdf