



Equality and Human Right Impact Assessment: The Form

Aberdeen City Council

EHRIA

There are separate guidance notes to accompany this form – “Equality and Human Rights Impact Assessment – the Guide.” Please use these guidance notes as you complete this form. Throughout the form, the word “proposal” refers to policy, strategy, plan, procedure, report or business case. This then, embraces a range of different actions such as setting budgets, developing high level strategies and organisational practices such as internal restructuring. Please also refer to the “Completion Terminology” at the end of the form.

1:Equality and Human Rights Impact Assessment- Essential Information

Name of Proposal:	Date of Assessment
Proposed Byelaw regarding Camping in Designated Areas	27/03/14
Service:	Directorate:
Housing	Housing and Environment
Committee Name (Where appropriate): Council	Date of Committee (Where appropriate): 14 May 2014
Who does this proposal affect?	Employees <input type="checkbox"/>
Please Tick ✓	Job Applicants <input type="checkbox"/>
	Service Users <input checked="" type="checkbox"/>
	Members of the Public <input checked="" type="checkbox"/>

	<p>Other (List below) <input checked="" type="checkbox"/></p> <p>Gypsy/ Traveller families who are the predominant group who camp overnight, tourists and potential tourists, businesses and local communities.</p> <p>Local communities and businesses.</p>
2: Equality and Human Rights Impact Assessment- Pre-screening	
Is an impact assessment required?	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
<p>If No, what is the evidence to support this decision? (Once this section is completed, please complete section 8 of the form).</p>	

3: Equality and Human Rights Impact Assessment

a- What are the aims and intended effects of this proposal?

Members will be aware that there are clear links between the work that the Council is undertaking in respect of identification of short term halting sites for Gypsy/Travellers and the development of a byelaw and the ongoing review that the Equal Opportunities Committee of the Scottish Government have begun.

The aim of the proposed byelaw is to prevent people from camping on the most sensitive, high profile public places, where the adverse visual and other physical consequences of encampments are likely to attract the most attention together with complaints and negative media coverage.

All of the Council's recent experiences with unauthorised encampments have involved Gypsy/Travellers. This is one of series of steps intended to address the issues taking account of the Council's public sector equality duty. It is considered that a byelaw identifying specified places where camping is not permitted and making a breach of the byelaw an offence may act as a signpost and discourage camping in these areas. If successful it may help foster good relations in that tensions may ease between the settled community and Gypsy/Travellers if the potential negative impact of, and negative media coverage on unauthorised encampments on the listed places were to cease.

<p>b- What equality data is available in relation to this proposal?</p> <p>(Please see guidance notes)</p>	<p>Within Aberdeen City Jan.- March 2013</p> <table border="1"> <thead> <tr> <th>No of Encampments</th> <th>Average no of days</th> <th>Average no of caravans</th> <th>Breach of code</th> </tr> </thead> <tbody> <tr> <td>13</td> <td>9</td> <td>10</td> <td>9</td> </tr> </tbody> </table> <p>April- June</p> <table border="1"> <thead> <tr> <th>No of Encampments</th> <th>Average no of days</th> <th>Average no of caravans</th> <th>Breach of code</th> </tr> </thead> <tbody> <tr> <td>34</td> <td>13</td> <td>16</td> <td>19</td> </tr> </tbody> </table> <p>July- September</p> <table border="1"> <thead> <tr> <th>No of Encampments</th> <th>Average no of days</th> <th>Average no of caravans</th> <th>Breach of code</th> </tr> </thead> <tbody> <tr> <td>23</td> <td>14</td> <td>12</td> <td>14</td> </tr> </tbody> </table> <p>October- December</p> <table border="1"> <thead> <tr> <th>No of Encampments</th> <th>Average no of days</th> <th>Average no of caravans</th> <th>Breach of code</th> </tr> </thead> <tbody> <tr> <td>7</td> <td>8</td> <td>8</td> <td>4</td> </tr> </tbody> </table> <p>There are now frequent large scale encampments of 30 caravans of Traveller families coming to the city to seek work.</p>	No of Encampments	Average no of days	Average no of caravans	Breach of code	13	9	10	9	No of Encampments	Average no of days	Average no of caravans	Breach of code	34	13	16	19	No of Encampments	Average no of days	Average no of caravans	Breach of code	23	14	12	14	No of Encampments	Average no of days	Average no of caravans	Breach of code	7	8	8	4
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<p>c- List the outcomes from any consultation that relate to equalities and/or human rights</p>	<p>We have consulted with Gypsy/ Travellers, the Grampian Gypsy/ Traveller Inter-agency Group, the Scottish Council for Development of Industry, Chamber of Commerce, the Federation of Small Businesses, community councils, Aberdeen Older People's</p>																																

<p>issues e.g. with employees, service users, Unions or members of the public that has taken place in relation to the proposal.</p>	<p>Advisory Group, the Aberdeen City Youth Council, the Pupils' Forum and parent councils.</p> <p>The Federation of Small Businesses is supportive of the proposal.</p> <p>The views from the HM Revenue and Customs Officer response were supportive.</p> <p>Waitrose is supportive and added that the proposal should include motorhomes and that school playing fields, nature reserves (beach area) should also be included. They noted that all open caravans sites have been closed within the city boundaries.</p> <p>“These types of sites should be available so people can stay overnight for a payment towards facilities used”.</p> <p>The Grampian 50+network have stated that the proposal appears appropriate except that it may be prudent to include the prohibition of making a fire to be an offence as this can lead to severe damage to the area. They go on to say that an aid to enforcement would be to have suitable alternative locations identified to where the Gypsy/ Travellers can be directed.</p> <p>Aberdeen Parent Council Forum and Dyce Academy Parent Council were also supportive.</p> <p>Nigg Community Council is supportive and added that</p> <p>Under Section (2) “Offence”, :- Bylaw should include, “Failure to comply with request to leave, will / may result in seizure of vehicles”. They also said that there is an “URGENT” need for “managed halting sites” to be provided.</p> <p>Mastrick, Sheddocksley & Summerhill Community Council are not supportive of this</p>
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approach and have indicated that the current legislation already in place covers this situation.

Torry Community Council are supportive of this proposal but would prefer to see Torry Headland indicated as Nigg Bay is too narrow a descriptor in their view. They would also like to see mobile CCTV set up to monitor sites where illegal camps are set up.

Cove & Altens Community Council are supportive of the proposal but would wish to see their recreational areas and tree belt protected to the North of Altens and running down the coast road placed on the nomination list as well as Loirston Green. They would also wish to see a blanket byelaw introduced for all city open spaces.

We have consulted on this proposal with members of the Grampian Gypsies/Traveller Inter-Agency Group, which includes Police Scotland, Grampian Regional Equality Council and the two neighbouring local authorities as well as the Council's Equality Officer.

The Grampian Gypsy/ Traveller Inter-agency Group has concerns that this proposal, without the provision of alternative official accommodation for Gypsies/ Travellers, will not help solve the issue but rather move the Travellers on and divert the focus from the need to address the local and national shortage of suitable sites.

The view of the group is that the proposal should extend to private land as well as land in public ownership, so that private landowners are offered the same protection and cover as the public authorities.

The North – East Scotland Equality Network (NESEN) was of the view that it is very doubtful whether the proposed Byelaw would have any positive impact and indeed it may prove counterproductive. NESEN believes that 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. There was widespread consensus within NESEN that in order for relations to improve significantly and sustainably some form of increased site provision is necessary. NESEN strongly feel that before this is done it would be unfair and damaging to community relations to introduce a Byelaw e.g.: there first needs to be more legal/authorised sites available in and around Aberdeen City before any further laws are implemented.

Grampian Regional Equality Council (GREC) and NESEN share the concerns regarding the recent deterioration in community relations with the Gypsy/Traveller community. They consider that the Facebook page is most unfortunate and unhelpful and have asked for a statement to go out reminding people that as with any matter although free speech is respected and encouraged people should ensure that any comments made do not breach policy and potentially legislation with respect to Prejudice Incidents/Hate Crime.

The Grampian Gypsy/ Traveller Inter-agency Group, Grampian Regional Equality Council and North- East Scotland Equality Network are unsupportive of this approach without having the provision of alternative suitable accommodation in place. Several contributors are concerned that this is proposing a two-tiered response to the situation as private landowners will not be offered the same protection and cover as the local authority. In response to this, although many of the facilities are Council run and owned, this approach will go some way to protecting public assets – i.e. it is in the interests of all citizens and Council Tax payers to see these types of problems resolved. We are still collating feedback and should have this finalised by end of week so detail will feature here and in EIHRA

The Gypsy Traveller Liaison Officer/Site Manager has also undertaken on site consultation with the service users at Clinterty and through an outreach approach with those Gypsy/Travellers at the various unauthorised encampments this year.

	<p>Unsurprisingly, the consensus is that the byelaw is not welcomed, however Gypsy/Travellers would welcome the delivery of increased short term halting sites.</p> <p>Council officers have liaised with counterparts across the country and although unauthorised encampments do exist in other local authority areas, the challenges that Aberdeen face is unprecedented in scale, presumably due to the local economy and the associated employment opportunities. Therefore, this is very much a local solution to resolve the local challenges and the impact on resources</p>
<p>d- Financial Assessment</p> <p>If applicable, state any relevant cost implications or savings expected from the proposal.</p>	<p>Costs (£)</p> <p>Implementation cost £6000</p> <p>Projected Savings £65000 approx</p>
<p>e- How does this proposal contribute to the public sector equality duty: to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations?</p>	
<p>To comply with the General Duty, Aberdeen City Council must have due regard to all three of these elements.</p>	

If the council were to proceed with this bye-law in the absence of doing anything positive and proactive to find suitable, alternative provision of accommodation for Gypsy/Travellers, then this proposal may constitute indirect discrimination as it will potentially impact more negatively on Gypsy/ Travellers than any other group, who we acknowledge do not have adequate stopping places, both locally and nationally. However the public perception, as reported, is that it is they who perceive themselves to be “harassed and victimised and unable to enjoy their usual lifestyles because of the presence of large unauthorised encampments”.

In spite of this, Aberdeen City Council have provided additional stop over facilities in the short term at Clinterty and there remains provision within the Local Development Plan to develop facilities linked to new build development at Loirston, Grandholm and Newhills expansion sites. In addition, Council has approved the development of a short term halting site at Howes Road and this is currently being progressed.

It is difficult to see how this proposal may advance equality of opportunity if Gypsy/ Travellers are less able to access health, education and social care from being moved on. Therefore the introduction of such a proposal needs to be married with the provision of official accommodation. In the longer term, this could be the opportunity to address the social, health and housing needs of Gypsies/Travellers.

The proposal aims to reduce community tensions and avoid potential flashpoints at known sites, as evidenced on several occasions in recent months within Aberdeen city. It aims to improve relations between Gypsies/ Travellers and the settled community as a result of reduced tensions due to fewer unauthorised encampments and subsequent less negative media coverage. Therefore this can contribute to the council’s duty to “foster good relations.”

This proposal applies to public land only and offers no solution to private landowners, who may feel aggrieved if there is subsequently an increase in the number of unauthorised encampments moving onto private land from public land as a result of this proposal.

f- How does this proposal link to the Council's Equality Outcomes?

This proposal will help the council achieve Equality Outcomes:

Tangible results from an improved Community Planning Partnership working for more effective delivery.

Strong and effective leadership that has and demonstrates an ethos of public service and treating everyone with respect – the council is trying to take leadership and exercise fairness.

The city environment and green spaces are cleaner, better maintained and more family friendly, taking account of physical accessibility and the needs of older people.

People with protected characteristics who make better use of cultural and sporting facilities. (some young people have been prevented from accessing football pitches, parks etc. due to unauthorised encampments)

It may contribute towards Equality Outcomes:

People who feel safe in their homes and in a city that is family friendly by night (primarily for the settled community and perhaps for Gypsy/ Travellers, should the provision of alternative accommodation follow.)

It is difficult to see that the proposal on its own meets Equality Outcomes:

Accommodation that meets the needs, culture and lifestyle of Gypsy/Traveller)s normally resident in, and visiting, the city of Aberdeen.

Reduced the gap in educational attainment between pupils.

People with protected characteristics have their social care needs met.

Effective customer service that is aware of the differences and requirements of different groups.

Improved opportunities for people with protected characteristics to participate in public life.

4: Equality Impact Assessment - Test

What impact will implementing this proposal have on employees, service users or other people who share characteristics protected by *The Equality Act 2010*?

Protected Characteristic:	Neutral Impact: Please ✓	Positive Impact: Please ✓	Negative Impact: Please ✓	Evidence of impact and if applicable, justification where a ' <i>Genuine Determining Reason</i> '* exists *(see completion terminology)
Age (People of all ages)		✓	✓	May impact negatively on Gypsy/ Traveller children and older people if less able to access healthcare and for children being less able to access education through being moved on. However, there may be a positive impact on the families of local settled communities who report feeling intimidated at being close to unauthorised encampments and are prevented from accessing leisure and recreational facilities.
Disability (Mental, Physical, Sensory and Carers of Disabled people)			✓	May impact negatively if Gypsy/ Travellers with disabilities are less able to access health and social care.
Gender Reassignment	✓			
Marital Status (Marriage and Civil Partnerships)	✓			
Pregnancy and				

Maternity			√	May impact negatively on pregnant Gypsy/ Traveller women or women with young babies if less able to access ante and post-natal healthcare.
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Equality Impact Assessment Test:

What impact will implementing this proposal have on employees, service users or other people who share characteristics protected by *The Equality Act 2010*?

Protected Characteristic:	Neutral Impact: Please √	Positive Impact: Please √	Negative Impact: Please √	Evidence of impact and if applicable, justification where a '<i>Genuine Determining Reason</i>'* exists *(see completion terminology)
Race (All Racial Groups including Gypsy/Travellers)		√	√	<p>There are various negative and positive impacts likely to arise through the implementation of a byelaw. Outcomes in the longer term.</p> <p>Relationships between Gypsy/ Travellers and the settled communities may improve if there are no unauthorised encampments in these very visible and sensitive areas. However, all unauthorised sites outwith these sensitive areas will be (as they are now) treated on their merits and also on their adherence to the council's Good Neighbour Code. There is the potential to reduce the overall number of evictions served on Gypsy/ Travellers.</p> <p>Clarification on the legal status of these sites will enable Gypsy/ Travellers to make more informed choices about the suitability of sites for unauthorised encampments</p>

				<p>However, Gypsy/ Travellers, if evicted, may face homelessness and the subsequent stress of being “moved on”. If evictions are progressed, there may be no alternative provision for Gypsy/ Travellers as the official site at Clinterty is full and operates a waiting list. The nearest official site to Clinterty is at Banff Springs in Moray which is seasonal and also regularly full. The continual moving on of Travellers means more limited access to education and healthcare for the families concerned.</p> <p>There may be increased tensions between Gypsy/Travellers and private landowners, should Gypsy/ Travellers be displaced onto private land, with the reputational damage and the negative media coverage that this would bring.</p> <p>In the longer term, this could be the opportunity to address the social, health and housing needs of Gypsies/Travellers.</p>
Religion or Belief or Non-belief	√			
Sex (Women and men)	√			
Sexual Orientation (Heterosexual, Lesbian, Gay And Bisexual)	√			
Other (e.g: Poverty)		√		Reducing levels of unauthorised camping is likely to improve the environment and the situation for the settled community ,

				<p>the local businesses ,who would be affected by the negative aspects and unauthorised encampments, eg, litter and waste and tourists and visitors and potential tourist and visitors to the city.</p> <p>This would also reduce the number of complaints to the council and the time and cost of dealing with unauthorised encampments.</p>
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5: Human Rights Impact Assessment Test	
Does this proposal have the potential to impact on an individual's Human Rights? Evidence of impact and , if applicable, justification where the impact is proportionate	
Article 2 of protocol 1: Right to education	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Evidence:</p> <p>May impact on the rights of Gypsy/ Traveller children to education</p>
Article 3: Right not to be subjected to torture, inhumane	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Evidence:</p>

<p>or degrading treatment or punishment</p>	
<p>Article 6: Right to a fair and public hearing</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Evidence:</p>
<p>Article 8: Right to respect for private and family life, home and correspondence</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Evidence:</p> <p>Potential situation of Gypsy/ Travellers being homeless. There is also evidence that currently unauthorised encampments affect the rights of members of the settled community in their homes with noise, litter, waste and nuisance and that children from the settled community are being unable to access sport and leisure facilities.</p>
<p>Article 10: Freedom of expression</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Evidence:</p>
<p>Article 14: Right not to be subject to discrimination</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Evidence:</p>

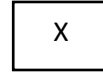
	<p>Although the proposal is to prevent overnight camping, its effect will impact on the Gypsy/ Traveller community more than any other.</p>
<p>Other article not listed above, please state:</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Evidence:</p>

6: Assessment Rating:

Please rate the overall equality and human right assessment
(Please see Completion terminology)



Red



Red
Amber



Amber



Green

Reason for that rating:

As a result of performing this assessment, it is evident that a risk of negative impact exists to one or more of the nine groups of people who share Protected Characteristics. However, a genuine determining reason may exist that could legitimise or justify the use of this proposal.

The local situation is very serious as evidenced by Facebook comments and community tensions are running high.

This is an attempt to try something new to address the unprecedented issues being faced in this locality with large scale overnight camping in high profile and sensitive locations.

7: Action Planning

As a result of performing this assessment, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Identified Risk and to whom:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
Risk to council and settled communities and businesses that this proposal is not seen to deliver the “right outcomes”	Regular monitoring of situation to ensure the right outcomes are achieved	Gypsy/ Traveller Liaison Officer with input from Gypsy/ Traveller Inter-agency Group	Ongoing	Monthly
Risk to Gypsy/ Travellers of homelessness, less	Provision of alternative official accommodation	Aberdeen City Council (in	Ongoing	Annually

<p>access to education and health and social care from being “moved on”.</p>		<p>partnership with Aberdeenshire Council)</p>		
<p>Risk of more severe deterioration in relations between Gypsy/ Travellers and the agencies and the settled community.</p>	<p>Action Plan to build dialogue, improve communication and foster good relations e.g. April 2011 - Grampian Gypsy/Traveller Cross-Community Dialogue Day held at Inverurie Town working together to build bridges. The Aberdeen City Civic Forum may be another route to try to open up more positive avenues of communication.</p>	<p>Grampian Gypsy/ Traveller Inter-agency Group</p>	<p>End October 2014</p>	<p>Annually</p>

8: Sign off

Completed by (Names and Services) :

Martin Smith, Housing

Checked by (Equality Check):

Sandra Bruce, Customer Service and Performance

Signed off by (Head of Service) :

Please send an electronic copy of your completed EHRIA - without signatures - together with the proposal document and/or committee report to:

Equalities Team
Customer Service and Performance
Corporate Governance
Aberdeen City Council
Business Hub 13
Second Floor North
Marischal College
Broad Street
Aberdeen
AB10 1AB

9: Completion Terminology:	
Assessment Pre-screening Rating:	<p>This section will highlight where there is the obvious potential for a negative impact and subsequent risk of negative media coverage and reputational damage to the Council. Therefore, a full impact assessment is required, for example around sensitive issues such as marching, Gypsy/ Traveller issues, change to social care provision. It should also be completed to evidence why a full impact assessment was not required, example, there is no potential negative impact on people.</p>
Assessment Rating:	<p>After completing this document, rate the overall assessment as follows:</p> <p>Red: As a result of performing this assessment, it is evident that we will discriminate (direct, indirect, unintentional or otherwise) against one or more of the nine groups of people who share <i>Protected Characteristics</i>. It is essential that the use of the proposal be suspended until further work or assessment is performed and the discrimination is removed.</p> <p>Red Amber: As a result of performing this assessment, it is evident that a risk of negative impact exists to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason may exist that could legitimise or justify the use of this proposal and further professional advice should be taken.</p>

	<p>Amber: As a result of performing this assessment, it is evident that a risk of negative impact exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p> <p>Green: As a result of performing this proposal does not appear to have any adverse impacts on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>
<p>Equality Data:</p>	<p>Equality data is internal or external information that may indicate how the proposal being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as ‘<i>Equality Groups</i>’.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1: Application success rates by <i>Equality Groups</i> 2: Complaints by <i>Equality Groups</i> 3: Service usage and withdrawal of services by <i>Equality Groups</i> 4: Grievances or decisions upheld and dismissed by <i>Equality Groups</i>
<p>Genuine Determining Reason</p>	<p>Certain discrimination may be capable of being justified on the grounds that:</p> <ol style="list-style-type: none"> (i) <i>A genuine determining reason exists</i> (ii) <i>The action is proportionate to the legitimate aims of the organisation</i>

	Where this is identified, it is recommended that professional and legal advice is sought prior to completing an Equality Impact Assessment.
Human Rights	The rights set out in the European Convention on Human Rights, as incorporated into the UK Law by the Human Rights Act 1998.
Legal Status:	This document is designed to assist us in <i>“Identifying and eliminating unlawful Discrimination, Harassment and Victimisation”</i> as required by <i>The Equality Act Public Sector Duty 2011</i> . An Equality Impact Assessment is not, in itself, legally binding and should not be used as a substitute for legal or other professional advice.