



## The Traveller Movement

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### **Submission to Home Office consultation on strengthening police powers to tackle unauthorised encampments**

**This submission is formally supported by the Gypsy Roma Traveller Police Association (GRTPA)**

#### **About the Traveller Movement**

The Traveller Movement (TM) is a leading national charity committed to the fulfilment of Human Rights for ethnic minority Gypsy, Roma, and Traveller people. The Traveller Movement's mission is to develop a platform and voice for Travellers, working in solidarity with Gypsy, Roma and Traveller (GRT) communities to achieve equality through self-determination and proactive participation in influencing and shaping policy.

#### **About the Gypsy Roma Traveller Police Association (GRTPA)**

The GRTPA is a support network for Police Personnel who are from a GRT background. We are a National organisation but our reach is international as we aim to link in with our Police colleagues from around the world. The GRTPA's main aim is to unite and support all Police Officers and Staff who are from GRT background. We will do this by promoting equality and fairness and by providing a support forum where members can share and discuss the issues which affect their working life.

### **Summary**

- We strongly disagree with the criminalisation of trespass
- The police and local authorities have sufficient powers to remove encampments and this should remain a civil matter
- This consultation is result of a blatant lack of site provision and lack of stopping places
- In our view the consultation's representation of the law in Ireland, or the so-called 'Irish Model' is misleading
- The Home Office's proposals will only serve to exacerbate the health and education inequalities experienced by nomadic Gypsies and Travellers

- We urge the government to instead adopt a common sense approach to the housing of nomadic Gypsies and Travellers
- In our view the Home Office should work toward improving the relationship between the police and Traveller communities
- The consultation stands in complete contrast to the forthcoming cross government strategy to tackle Gypsy, Roma Traveller inequalities

## Main Points

1. In 2011 Gypsies and Irish Travellers were first included as ethnic minority groups in the National Census resulting in the ONS conducting a dedicated analysis of data relating to these groups in 2014<sup>1</sup>.
2. Gypsies and Irish Travellers are ethnic minorities and have a protected characteristic under the Equality Act. They are protected from race discrimination and by the Public Sector Equality Duty.
3. Gypsies, Roma and Travellers are the most marginalised ethnic groups in the UK<sup>2</sup> and face multiple disadvantages across different areas of life. In 2019 the Women and Equalities Committee recommended<sup>3</sup> the government implement a national strategy to tackle inequalities. In June 2019 the Minister for Communities announced a [strategy](#) calling for government to tackle Gypsy, Roma and Traveller inequalities.
4. The Home Office consultation stands in stark contrast to the proposed national strategy to tackle Gypsy, Roma and Traveller inequalities, as it introduces no alternative measures or places an additional burden on Local Authorities to house Gypsies and Travellers. If anything, it has the potential to further exacerbate these inequalities. The Home Office consultation paper makes no mention at all of site provision. In our view the failure to address such an important matter is a fatal flaw in the consultation paper.
5. The Traveller Movement's research *Policing by consent: Understanding and improving relations between Gypsies, Roma and Irish Travellers and the police*<sup>4</sup> indicates the relationship between Gypsies, Roma and Travellers (GRT) and the police is already **fraught with tension and mistrust**.
6. A recent Freedom of Information request by NGO Friends, Families and Travellers indicated the police **oppose having additional powers**<sup>5</sup>.

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<sup>1</sup> ONS, 2014, [2011 Census analysis: What does the 2011 Census tell us about the characteristics of Gypsy or Irish travellers in England and Wales?](#)

<sup>2</sup> EHRC, 2009, [Inequalities experienced by Gypsy and Travellers Communities: A review](#), p. 152

<sup>3</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/360/report-files/36005.htm#footnote-257>

<sup>4</sup> [https://www.travellermovement.org.uk/phocadownload/userupload/criminal-justice/TTM-Policing-by-consent\\_web.pdf](https://www.travellermovement.org.uk/phocadownload/userupload/criminal-justice/TTM-Policing-by-consent_web.pdf)

<sup>5</sup> <https://www.gypsy-traveller.org/wp-content/uploads/2019/11/FINAL-Police-oppose-criminalising-unauthorised-encampments-and-call-for-more-sites-to-be-published-9am-13.11.19.pdf>

Further, the research found:

- 75% of police responses felt current police powers were sufficient and/or proportionate
- 84% of police responses did not support the criminalisation of unauthorised encampments
- 65% of police responses said that lack of site provision was the real problem

7. The answer to unauthorised developments and encampments is the provision of public and private pitches, transit sites and emergency stopping places, facilitated by a policy of 'negotiated stopping'<sup>6</sup>.

8. The so-called '**Irish model**' of dealing with unauthorised encampments is failing Travellers. A 2019 Traveller Accommodation Expert Review<sup>7</sup> found that Irish legislation<sup>8</sup> had a severe impact on members of the Traveller community who continue to live in caravans, and urged the Irish government to repeal the trespass legislation. It also urged a review of the eviction procedure to take into account the needs of vulnerable Travellers, such as children, the elderly and the disabled. Further it raised concerns relating to the manner in which arbitrary evictions can occur without any form of judicial oversight, monitoring or intervention.

9. The threat of eviction and removal severely impacts on a **child's education**, and a family's **access to healthcare**. Traveller Movement's report the *Impact of Insecure Accommodation and the living environment of Gypsies and Travellers' health*<sup>9</sup> found that insecure accommodation increases anxiety and depression, and people reported having bad or very bad health. Additionally accommodation insecurity increases racial discrimination.

## The relationship between the police and Traveller communities

10. Traveller Movement's 2018 research *Policing by Consent*<sup>10</sup> found that the relationship between GRT people and the police is too often marked by **mutual mistrust**, **poor communication** and **conflict** limiting the communities' ability to access justice and the police's ability to protect citizens and fight crime.

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<sup>6</sup> <https://www.negotiatedstopping.co.uk/what-is-negotiated-stopping>

<sup>7</sup> <https://www.paveepoint.ie/wp-content/uploads/2019/07/Expert-Review-Group-Traveller-Accommodation.pdf>

<sup>8</sup> Part II A of the Criminal Justice (Public Order) Act, 1994 (as amended), containing Sections 19 (A) 19 (B) 19 (C) and 19 (D) ('Trespass Legislation')

<sup>9</sup> <https://travellermovement.org.uk/phocadownload/userupload/health/Impact-of-insecure-accommodation-REPORT-traveller-movement-ARCHIVE.pdf>

<sup>10</sup> [https://www.travellermovement.org.uk/phocadownload/userupload/criminal-justice/TTM-Policing-by-consent\\_web.pdf](https://www.travellermovement.org.uk/phocadownload/userupload/criminal-justice/TTM-Policing-by-consent_web.pdf)

11. The research found that the emphasis on **reactive rather than preventative policing** compounded other outcomes, including GRT people being less likely to report being victims of crime and low levels of trust and confidence between community members and police officers.

12. The study also found that Gypsy, Roma, Traveller ethnicity was often treated as a **risk factor** by police, with two thirds of officers and over three quarters of community members identifying cases of over-policing and consistently higher levels of police response.

13. Many police forces currently emphasise **enforcement over engagement**, and response over prevention in respect to the GRT communities resulting in ineffective, inefficient and often illegitimate policing. New and more robust evidence to support this has been emerging in recent years, including the Crime Survey for England and Wales which shows that Gypsies and Irish Travellers are nearly half as likely to be confident in their local police.

14. An over emphasis on enforcement and an acute absence of neighborhood policing lie at the heart of this troubled relationship.

15. **It is our collective opinion that additional police powers would further exacerbate this already fraught relationship.**

## **Equality Implications**

16. Romany Gypsies or Irish Travellers are recognised as having a protected characteristic (by their race) under the Equality Act 2010. Further, the police and local authorities must have due regard under the **Public Sector Equality Duty** to achieve the following:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The police and local authorities will be **unable to meet their equality duties** toward nomadic Gypsies and Travellers with these proposed new powers.

17. Further, as a statutory organisation the Home Office has a duty to carry out an **Equality Impact Assessment** which it has apparently failed to do. This is a blatant **dereliction of duty**. It should not be left to Gypsies and Travellers, who are among the most marginalised in the UK, or to their followers to point out the **equality implications** of these proposed new measures. Finally, it would be in the interest of all statutory bodies to focus on improving the outcomes for Gypsy, Roma and Traveller communities and not pay lip service to the Public Sector Equality Duty.

## Potential legal implications

18. According to analysis by the Community Law Partnership (CLP), a decision to criminalise trespass or strengthen the enforcement powers would result in Gypsies and Travellers without a lawful site being subjected to **continual eviction** and under the **constant threat of prosecution** if they choose to pursue their traditional way of life. It would be susceptible to challenge in the Courts on grounds that:

- it would breach the rights of Gypsies and Travellers protected by **Article 8 of the European Convention on Human Rights** (ECHR) to respect for their traditional way of life and the positive obligation on the government to facilitate that way of life (see *Chapman v UK* (2001) 33 EHRR 399 at para 96)
- it would breach the government's public sector equality duty under **Equality Act 2010 s149** (given that the provisions would disproportionately impact Romani Gypsies and Irish Travellers who are recognised as ethnic groups)

19. In the view of the CLP, such a significant increase in enforcement powers would be disproportionate and unreasonable when there are insufficient pitches and stopping places. When hundreds of Gypsies and Travellers have to resort to unauthorised encampments through no fault of their own, criminalisation is not a justifiable response.

20. The above conclusion is completely reinforced by the recent judgment (21 January 2020) in the case of *Mayor and Burgesses of London Borough of Bromley v Persons Unknown, London Gypsies and Travellers & ors* [2020] EWCA Civ 12. Indeed the CLP believe that this judgment means that any criminalisation of trespass or extreme increase in police powers (as proposed by the Government) would immediately amount to a breach of the ECHR and the Equality Act.

21. Increased powers will further problematize the relationship between the Police and GRT communities. The police have a positive duty under equality legislation to foster good relations, eliminate unlawful discrimination, and advance equality of opportunity. Increased powers will prevent police forces across the country from enacting these duties.

22. Our collective opinion is that nobody is well served, least of all Gypsies and Travellers by criminalising trespass, removing or impounding vehicles, or increasing police powers.

## Recommendations

- Scrap the entire Home Office consultation – it lacks transparency, and risks criminalising a vulnerable cohort of Gypsies and Travellers. It should not be criminal offence to be homeless, or to travel
- Create more sites for Gypsies and Travellers and adopt Negotiated Stopping model<sup>11</sup> across all local authorities
- Open a consultation, with immediate effect to gather views for the national strategy to tackle Gypsy, Roma and Traveller inequalities, as announced by the Minister for Communities and Local Government in June 2019<sup>12</sup>

**For more information please visit our website or contact us on the details above.**

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<sup>11</sup> <https://www.negotiatedstopping.co.uk/>

<sup>12</sup> <https://www.gov.uk/government/news/new-national-strategy-to-tackle-gypsy-roma-and-traveller-inequalities>