

GRT 04

Ymgynghoriad ar ddarparu safleoedd ar gyfer cymunedau Sipsiwn, Roma a Theithwyr

Consultation on the provision of sites for Gypsy, Roma and Travellers

Ymateb gan: Comisiwn Cydraddoldeb a Hawliau Dynol

Response from: Equality and Human Rights Commission



Consultation response

Provision of sites for Gypsy, Roma and Travellers

Consultation details

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Source of consultation: Senedd Local Government and Housing Committee

Date: 20 May 2022

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Introduction

About the Equality and Human Rights Commission

The Equality and Human Rights Commission ('the Commission') is Great Britain's national equality body and has been awarded an 'A' status as a National Human Rights Institution (NHRI) by the United Nations. Our job is to help make Britain fairer. We do this by safeguarding and enforcing the laws that protect people's rights to fairness, dignity and respect. The Commission has been given powers to advise Governments across England, Scotland and Wales on the equality and human rights implications of legislation and policy. We can also publish information or provide advice, on any matter related to equality, diversity and human rights.

This response addresses the implications of the UK Government's Police, Crime, Sentencing and Courts Bill and discharge of the Public Sector Equality Duty (PSED) by Welsh Government and local authorities when considering site provision for Gypsy, Roma and Traveller people.

Response to the Consultation Letter

Implications of provisions in the UK Government's Police, Crime, Sentencing and Courts Bill

We support the UK Government's commitment to tackle serious crime and promote a fair justice system and welcome some measures in the Bill' such as those with aim to reduce the use of custodial remand for children.

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However, as set out in our [July 2021 briefing](#), we remain concerned that the criminalisation of trespass and accompanying police powers could have a profound effect on Gypsy, Roma and Traveller (GRT) groups who already face a shortage of authorised sites,¹ and disproportionately interferes with the right to respect for private and family life under Article 8 and 14 of the European Convention on Human Rights (EHCR) [Article 8 of the Human Rights Act 1998](#). The Bill will create a criminal offence of trespass for those residing or intending to reside on land with a single vehicle without the consent of the occupier² and expand police powers to seize property, including vehicles which may act as a family home.³ The civil law currently allows police to direct individuals residing on land with six or more vehicles to leave where damage has been caused or threatening or abusive words or behaviour used and where an officer “reasonably believes” the occupier has taken “reasonable steps” to ask those on the land to leave.⁴ Further powers are available to police where they consider the offence of aggravated trespass has been committed.⁵

The courts have recognised and protected the right of the Gypsy and Traveller community to maintain a nomadic lifestyle⁶ and identified the lack of available alternative sites as relevant to the proportionality of injunctions to prevent unauthorised encampments.⁷ Part 4 of the Bill is likely to exacerbate existing

¹ Friends, Families and Travellers (2020), [No place to stop: Research on the five year supply of deliverable Gypsy and Traveller sites in the South East of England](#).

² Clause 62. Provision restricted to England and Wales.

³ If the individual fails to leave the land or, having left, re-enters it with the intention of residing there without the consent of the occupier of the land, he or she can be arrested and his or her vehicle can be impounded.

⁴ [Criminal Justice and Public Order Act \(CJPOA\) 1994, section 61](#).

⁵ [Criminal Justice and Public Order Act \(CJPOA\) 1994, section 69](#). Aggravated trespass occurs where a trespasser does something to intimidate a person engaging in lawful activity on the land or to disrupt or obstruct that activity.

⁶ *Chapman v UK* [2001] 33 EHRR 399; *London Borough of Bromley v Persons Unknown, London Gypsies and Travellers and Others* [2020] EWCA Civ 12.

⁷ *London Borough of Bromley v Persons Unknown, London Gypsies and Travellers and Others* [2020] EWCA Civ 12.

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disadvantages across multiple areas of life, including difficulty accessing healthcare and often low standards of housing.⁸

- **The Commission has advised the UK Government to reconsider measures to expand the criminalisation of trespass and accompanying police powers, which disproportionately interfere with the right to respect for private and family life for Gypsy, Roma and Traveller (GRT) groups under Article 8 and 14 of the ECHR.**

Welsh Government and local authority Public Sector Equality Duties

Welsh Government and local authorities must comply with the Public Sector Equality Duty (PSED) and Socio-economic Duty (SED) when undertaking or reviewing needs assessments, planning provision, and developing and implementing policy in relation to provision of sites for Gypsy, Roma and Travellers.

Gypsies, Roma and Travellers are a seriously disadvantaged group. Our [Is Wales Fairer? 2018](#) report showed that Gypsy, Roma and Travellers continued to have poor access to healthcare, poorer health and lower education attainment compared to other groups.⁹ A qualitative research study found that current and historical accommodation insecurity negatively impacts health for Gypsy, Roma and Traveller people, and that effectively addressing accommodation insecurity and provision of sites will have a positive effect both on community members' health and on the wider social determinants that impact on their intergenerational health and wellbeing such as education and employment.¹⁰

⁸ Equality and Human Rights Commission (2018), [Is Britain Fairer?](#)

⁹ EHRC (2018), [Is Wales Fairer? 2018](#), pp.9, 66

¹⁰ The Traveller Movement (2016) [Impact of Insecure Accommodation on Gypsy, Roma and Traveller Health](#)

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The Welsh Government Enabling Gypsies, Roma and Travellers plan shows that with planning and care it is possible to develop new Gypsy and Traveller sites providing for the needs of the Gypsy and Traveller community without causing concern to the settled community. However, it is clear that further work is required to develop authorised sites as according to the 'Gypsy and Traveller Caravan Count: January 2021' eight local authorities reported having no pitches on 31 January 2021.¹¹ The Welsh Government must ensure that human rights are embedded in all of their actions and that they fulfil international obligations. Providing suitable accommodation for Gypsies, Roma and Travellers is key to this. The United Nations Committee on the Elimination of Racial Discrimination has recommended that the provision of suitable sites is prioritised and in their 'Concluding observations on the combined twenty-first to twenty-third periodic reports of the United Kingdom of Great Britain and Northern Ireland' they concluded that the situation of Gypsies, Roma and Travellers had not improved.¹²

The PSED requires public authorities to have 'due regard' to the need to eliminate discrimination in the exercise of their functions, advance equality of opportunity between groups of people with protected characteristics and foster good relations. The duty includes a requirement to assess how decisions and policies may adversely affect groups of people with different protected characteristics, and to consider how to meet their particular needs.¹³ Wales-specific duties include the requirement for listed bodies to state equality objectives, report on progress towards them and to engage with people with protected characteristics when making policy decisions¹⁴.

¹¹ <https://gov.wales/gypsy-and-traveller-caravan-count-january-2021-html>

¹² https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/GBR/CO/21-23&Lang=En

¹³ [Equality Act 2010](#), Section 149.

¹⁴ For guidance on the Wales specific duties, see the Commission's [Essential Guide to the Public Sector Equality Duty: An Overview for Listed Public Authorities in Wales and Technical Guide: Public Sector Equality Duty in Wales](#)

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Furthermore, the SED requires that Government officials and listed bodies consider the impact of strategic decisions on those who are disadvantaged due to low income or other material deprivation.¹⁵

Decisions on undertaking or reviewing needs assessments, planning provision, and developing and implementing policy in relation to provision of sites for Gypsy, Roma and Travellers should be considered as strategic decisions.

The Commission has developed a briefing note¹⁶ to set out the legal position in relation to racial discrimination against Gypsies, Roma and Travellers and their sites in Wales, indicating the responsibilities of Councillors and Councils in Wales. The Welsh Government should ensure that this note is disseminated to councils and councillors in Wales.

¹⁵ For guidance on the socio-economic duty, see: <https://gov.wales/socio-economic-duty>

¹⁶ EHRC (2021). Legal briefing on racial discrimination: Gypsies, Roma, Travellers and their sites in Wales