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Submission By The Traveller Law Reform Coalition To The ODPM Housing, Planning And Local Government And The Regions Committee

The Traveller Law Reform Coalition is an alliance of Traveller campaign organisations, it contains the principal Traveller organisations such as the Gypsy Council, Friends, Families and Travellers and the Irish Traveller Movement. It is funded by Comic Relief and recognised by the Commission for Racial Equality as a major point of contact with the Traveller community.

We recommend:

- Traveller accommodation, where possible, being given the same status as housing and assessed, delivered and funded through the same mechanisms
- A statutory duty to provide and facilitate Traveller sites
- Improved tenancy rights for Travellers living on Traveller sites, greater social and spatial inclusion for the Gypsy and Traveller community and a greater sense of stakeholding in the communities in which they live
- A new reissued circular 1/94 which makes a stronger commitment necessary from local authorities to consult Travellers in framing development plans and offering assistance to live on land they own

Introduction

One of the slogans presently used by the ODPM is the desire to create ‘a decent home for all’. However, the Gypsy and Traveller community often feels excluded from such initiatives, as these tend to focus on housing and omit consideration of Traveller accommodation needs.

The marginalisation of Travellers in accommodation policies originates to 1994, when the 1968 Caravans’ Act was repealed under the Criminal Justice and Public Order Act, which ended the duty on local authorities to provide sites. At the same time the Government stated that the emphasis should now be on Gypsies and Travellers to provide their own sites. The Labour opposition in the House of Commons opposed this Act. Peter Pike, Labour spokesman for Home Affairs stated:

“The Government’s proposals to repeal part of the Caravan Sites Act 1968 do not solve any problems but create more....What would be achieved by passing this Bill?...to do so would criminalise some Gypsies and increase homelessness; it would cause family breakdown and place added pressures on social and education services. It would certainly not solve any problems. Indeed it is our view that it would create more problems and improve nothing”.

Lord Irvine (then shadow Lord Chancellor) also stated that there was “humbug at the heart of government policy” on the basis that their real intention was to try and force Travellers into settled accommodation.

Unfortunately for the Gypsy and Traveller community, time has shown these comments to hold a great deal of truth. The present failed policy regime has not only had a negative impact on the

health of the Traveller community and increased the number of unauthorised encampments, but has also caused inconvenience for the settled community. Relations between the settled and Traveller community have sadly deteriorated as a result. Aside from the human cost is the financial: the Traveller Law Research Unit has calculated that 18 million pounds is annually spent on enforcement measures with regards to unauthorised encampments (At What Cost”, 2002, Rachel Morris and Luke Clements)

The 1994 Act also brought in ‘draconian’ eviction powers (described as such by Lord Justice Sedley in the case of R v Wealden DC ex parte Atkinson & ors), which have been enthusiastically employed by local authorities and police forces throughout England and Wales. The Labour Government has confined itself to producing guidance on how to deal with unauthorised encampments which has solely managed to exacerbate a continuing dire situation on the ground. On a daily basis, Gypsies and Travellers without authorised stopping places, are hounded from one place to another. Due to the repeal of the duty to provide, the number of pitches on official sites has actually declined, with some sites being shut down altogether. Despite their opposition at the time of the 1994 Act, the Labour Government, after six years in power, has singularly failed to redress this disastrous situation.

The accommodation status of Travellers and their level of marginalisation have had a negative impact on the health and life chances of the Gypsy and Traveller community.

- Ofsted have estimated that only 20 % of Gypsy and Traveller teenagers go to secondary school
- Recent research indicates that Travellers have a high maternal death rate, possibly the highest rate among all ethnic groups (Lewis G, Drife J ‘Why Mothers Die’. The 5th report of the confidential enquiries into maternal deaths in the UK, 1997-1999)
- General findings from small local studies suggest the health of Travellers is markedly worse than average. Many live in extremely unhealthy conditions and have poor access to services. (Van Cleemput, P, Parry, G ‘Health status of Gypsy Travellers’. Journal of Public Health Medicine, 2001)

The Definition Of Decent

In a report commissioned by the ODPM (‘The Provision and Condition of Traveller Accommodation’, 2002) the author of the report Pat Niner noted that 70% of sites occupied fringe space. Often such sites are next to areas of land, which do not have a residential function but use, which can make nearby occupation unpleasant and even dangerous. For many Traveller families it is a continual cause of concern that their children have to live and play alongside busy roads and other such areas of land, which pose extreme risks and hazards. Many unauthorised encampments occupy even more inhospitable pieces of land without sanitation or refuse collection services.

A decent home is a site that enables Travellers to have full access to the public services of the community and conforms to accepted health and safety standards but which also make Travellers feel part of the community and not ghettoised or spatially marginalised.

The Scale of the Problem

There are many members of the Gypsy Traveller community without a place to stop. They are homeless. Some 0.6% of the settled population are homeless (ODPM figures). Yet Gypsy Count figures from the ODPM for January 2003 show that some 21% of the Gypsy and Traveller population are homeless (i.e. without an authorised place to stop and thus within the definition of 'homelessness' in the Housing Act 1996 Part VII).

Many sites occupy marginal and low quality living space. The report by Pat Niner 'The Provision and Condition of Local Authority Gypsy/Traveller Sites In England', 2002, page 18, found in a large sample of 107 sites, approximately a third of the total of national sites, that 70% occupy fringe areas of towns and villages. 26% of sites were near motorways and major roads, 13% were adjacent to railways, 12% were located next to rubbish tips, 8% were next to industrial/commercial locations and 3% were next to sewage works.

The Niner report notes that in its sample of sites there was not adequate surface water drainage on 17% of pitches and that 12% suffer from natural flooding. The site design guide published by the Department of the environment recommended that pitches should be no less than 12 metres wide. Four in ten are less than 12 metres and 15% are less than 10metres (Niner, 2002, 19). It should be noted that the cramped living conditions on some sites greatly increase the hazardous risks posed by fire. Four in ten sites have no fire fighting equipment (Niner, 2002, 19).

In 2000 the Race Relations Act was amended so that all public bodies should provide equality of opportunity in the services they provide to all minority groups. Research has also shown that public bodies are disregarding the amended Race Relations Act, where Travellers are concerned. A survey of councils conducted by Lord Avebury found that many local authorities appear unaware that the Homelessness Act 2003 classifies Travellers on unauthorised encampments as homeless, and of the 152 authorities whose homelessness strategies were checked, 107 did not mention Travellers.

Travellers with disabilities living on sites cannot access Disabled Facilities Grants because of the wording of the present law. On the 18th of March Lord Rooker, minister in the ODPM, wrote to Lord Avebury stating that he would look for an opportunity to remove this discrimination in the Disabled Facilities Grant. As yet Lord Avebury has received no further news and many disabled Travellers are anxious for this area of policy discrimination to be urgently addressed.

The various mechanisms for funding and delivery - stock transfer, PFI, Arms Length Management Organisations and council housing

Since the abolition of the statutory duty on local authorities to provide Traveller accommodation there have in effect been no mechanisms to deliver Traveller accommodation. Circular 1/94 was designed to encourage local authorities to assist Traveller to live on their own land. It calls upon local authorities to consult Travellers in the framing of their development plans and to identify possible areas that are suitable for site development. Few local authorities do this. Furthermore, it has been estimated that 90 % of planning applications by the Gypsy and Traveller community are refused as opposed to 20% for the settled community.

The abolition of the statutory duty also led to the end of the 100% exchequer grant, which was introduced in 1980 following the Cripp's Report, this gave a great spur to site provision. The government has made available a £17 million site refurbishment grant available over three years. This may be compared with Pat Niner's (The Provision and Condition of Local Authority Gypsy/Traveller Sites in England) estimate that £123 million over 30 years is needed merely to maintain the 308 sites that were in use in early 2002. That is not even to reinstate the remaining 16 sites, which had degenerated to the point of being unusable. If spending continued at that rate, it might be just enough to prevent further losses, but in the next two years, they plan to spend funds on refurbishment and the provision of transit sites. So the money has to be split between the two.

The Home Office's Anti Social Behaviour Bill proposes to give local authorities new fast track eviction powers over Travellers if they can be directed to alternative sites. We believe that these proposals are seriously flawed. We have serious concerns about the rights of families and their possible enforced break up and direction to different sites as well as the location and facilities available on the sites to which they are to be directed. A further complexity, and possible cause for outrage and disorder, is that current sites are so oversubscribed on their waiting lists, that to place evicted Travellers onto them would result in enforced queue jumping. The Parliamentary Joint Human Rights Committee concluded in a report on the 21ST of August that the amendments concerning the eviction of Travellers gave rise to a significant risk of incompatibility with convention rights under the European Human Rights Convention. Given the shortage of sites, and lack of a duty or funding for local authorities for site construction, where will these alternative sites come from?

The government claims that these new powers will give local authorities an incentive to provide sites, but we would contend that the desire to evict and move on Travellers, who will in many cases be homeless, is a poor premise for creating new site provision. Local authorities are not being encouraged to recognise that they have a civic duty to provide 'decent homes for all'. Given the limited funding available it is also likely that where local authorities do provide new sites they will occupy marginal space and have limited facilities.

It should be noted that the new powers regarding Travellers were inserted into the final stages of the Anti Social Behaviour Bill, this has meant the proposals have not been adequately scrutinised in the House of Commons, where they were not fully debated.

The implications of the PSA Plus Review undertaken earlier this year and the recent studies by the National Audit Office and Audit Commission

The PSA Plus Review made a number of recommendations, of which, one of the key ones was putting the tenant at the heart of decent homes delivery. The Government wants tenants to be fully engaged in the decision making about their choice in the options for delivering decent homes. The Traveller Law Reform Coalition would greatly welcome the greater inclusion of the Gypsy and Traveller community in site design and management issues, at present there is a tendency for local authorities to manage these issues in a hierarchical manner. The Sustainable Communities Plan confirmed the Government's support for the transfer of local authority housing to registered social landlords where this is developed with and supported by tenants. Some local authorities are transferring their sites to registered social landlords again we would argue that there is a need to maximise tenant involvement in this process and the future management of their site.

The role of tenant choice

Many Travellers do not have the rights and privileges of householders as contained in their tenancy agreements. Many possess licenses, which in some cases mean they can be arbitrarily given as little as seven days notice to leave a site, in spite of the fact they have spent perhaps twenty years living on that particular site, and without necessarily breaching their licence conditions. Some licences stipulate that caravans be kept in road 'rollable' condition at all times, thereby limiting the size, and preventing adaptability, for instance, to disabled living.

It should also be noted that Traveller site tenants unlike council house tenants do not have a right to buy their homes. Travellers are also rarely represented in a range of local community decision making forums.

Such a lack of rights creates a severe sense of powerlessness and vulnerability by Travellers, which often creates an obstacle in seeing their site as a real home. We want to see Travellers empowered and given a greater sense of stakeholding in their community. They should be given tenants rights equal to those of householders in social housing and encouraged to form tenants' committees and given a greater say in the management and design of their sites.

The link between the decent homes target and other parts of the Government's sustainable communities agenda.

The government has committed £22 billion pounds to its Sustainable Communities Agenda and drive to create affordable accommodation, yet not one penny of this money will be spent on the Gypsy and Traveller community. We welcome the recommendations of the Institute for Public Policy Research in a recent consultation paper 'Moving On' it proposes the incorporation of Gypsy sites into the forthcoming new Regional Housing and Planning arrangements, including detailed assessment of future accommodation needs, as with other sectors of the community. It also presents the notion of introducing a obligation on local authorities to ensure the provision of further sites but this time linked very closely with the establishment of regional mechanisms to facilitate and ensure successful establishment of new sites. In addition it proposes the establishment of a high-level unit within the ODPM to steer the new processes, and the possibility of specialist Registered Social Landlords who could be responsible for the creation and perhaps management of the necessary new sites. The sites, however, could be established and managed by local authorities, Registered Social Landlords or private or voluntary bodies.

We would argue that part of the rationale behind the Sustainable and Cohesive communities initiative is that 'sustainable' should involve the promotion of accommodation that has a low negative impact on the environment. It should be noted that some forms of Traveller accommodation make good use of natural and recycled materials and by virtue of their transportability cause minimal damage to the environment.

We note that the Sustainable and Cohesive communities initiative wishes to promote the creation of mixed income neighbourhoods which are racially and socially inclusive. However, Travellers are being denied access to such cohesive communities as a result of their spatial exclusion. There is a particular danger in urban areas where high real estate values and regeneration projects are threatening to close Traveller sites. We note that David Atkinson MP for Bournemouth has

stated that if a duty is restored on local authorities to create Traveller sites then those in urban areas with no land for development should be allowed to transfer their responsibility to neighbouring rural areas. We totally reject this proposal as it could lead to the complete exclusion of Travellers from urban areas. If cohesive communities are to be created reflecting racial and social diversity then Traveller accommodation must be delivered in urban areas. Those with high levels of development should consider creating small sites in pockets of land that do and will become available.

Decent Homes For All

We hope the ODPM Housing, Planning, Local Government and the Regions Committee recognises that if the government is to be serious in its pledge to create decent homes for all then new and bold proposals are needed to address the severe accommodation problems of the Gypsy and Traveller community. We welcome the statement by the Select Committee of the Office of the Deputy of the Prime Minister: Housing, Planning, Local Government and the Regions Tenth report of July the 14, 2003 on the Draft Housing Bill, paragraph 200, which declared

“We recommend that a statutory duty on local authorities to ‘make’ or ‘facilitate’ the provision of sites for Gypsies and Travellers is introduced as soon as possible, again within the next two years”.

We would like to draw to the committee’s attention to the fact that following the burning of effigies of a Gypsy family in Firle Sussex, which was said to have been a response to a local unauthorised encampment, the Traveller Law Reform Coalition has been actively engaged in discussions in Sussex with Travellers, local authorities, politicians and the police. We have been trying to promote reconciliation and mutual understanding and are pleased to note a consensus by a range of interested parties that an increase in Traveller accommodation is needed to address the welfare needs of Travellers but also to reduce tensions between the settled and Traveller community. It is our belief that the events in Firle are a symptom and dire warning of the possible civil disobedience that might arise if the present Traveller accommodation inadequacies are not addressed.

Furthermore, it should be noted that the Commission for Racial Equality in its consultation Strategy for Gypsies and Travellers contends that securing decent accommodation for the Traveller community is a key factor in achieving equality for the Gypsy and Traveller community.

We therefore wish to see the government address Traveller accommodation issues as a matter of urgency in the forthcoming Housing Bill. We feel that the recommendations put forward at the start of this report set out the best way forward.

