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## **Traveller Law Reform Project response to**

### ***Fairness and Freedom: the Final Report of the Equalities Review***

#### **1 Introductory comments**

TLRP welcomes the publication of ***Fairness and Freedom: the Final Report of the Equalities Review***. We welcome the report's suggestions that

- non-discrimination alone is not sufficient to bring about equality;
- integrated action needs to be taken in order to address inequalities;
- such action must be developed not simply in reaction to something negative – inequality – but as part of a positive strategy to create and strengthen a 'human rights culture' rooted in profound mutual respect.

#### **2 Definition of Equality**

We are not convinced that the definition of 'equality' first mentioned on page 6 of the report is sufficiently clear. Nonetheless, we welcome the definition's recognition of diversity of needs, goals and preferences, and its emphasis on the 'substantive opportunity to live in the ways people value and would choose, so that everyone can flourish.' Implicit in this is that 'an equal society' accepts and facilitates the nomadic way of life that many Gypsies and Travellers value and would choose.

#### **3 Dimensions of Equality**

Gypsies and Travellers currently fare very badly in many of the report's 'ten dimensions of equality' listed on page 18 – notably in Longevity, Health, Education, Participation, influence and voice, Identity, expression and self-respect, and Legal security.

#### **4 Education**

The report goes into some detail about some of the problems faced by Gypsy and Traveller children in the education system. In its discussion (page 50) of Home Learning Environments, however, although it mentions that children from Pakistani, Bangladeshi, and Black African families 'experience a lower HLE on average than children in other ethnic groups' and that Poor White families are far less likely than the average to use pre-school provision for their youngest children, it says nothing in this section about the particular problems faced by Gypsy and Traveller families in creating a strong HLE, which are linked with poor communication between schools and families, lower than average levels of literacy among Gypsy and Traveller parents and, in some cases, the instability caused by frequent evictions.

In the report's consideration of ethnic minority attainment on page 52, it might have been helpful to mention the factors which contribute to the 'large and apparently immovable attainment gap' between Gypsy and Traveller pupils and pupils from all other ethnic groups. Not mentioning the

causes of this attainment gap could lead to the erroneous impression that Gypsy and Traveller children enjoy lower levels of intelligence than other children.

These include not only the difficulties of creating a good HLE but a number of other factors. The December 2003 report from the Office for Standards in Education, *Provision and support for Traveller pupils*, notes that most Gypsy and Traveller children come from caring and protective families who fear that school attendance will expose the children to racist bullying and erosion of their community's moral code. They may see the secondary school curriculum as irrelevant because of the tradition of starting work in the family business at an early age. The report finds that the use of data from schools to track the progress and achievement of Traveller pupils varies greatly between LEAs. It also finds that the way in which many local authorities deal with unauthorized encampments contradicts their public statements about the inclusion of all pupils in education. Frequent evictions prevent consistent school attendance.

The July 2003 report from the Department for Education and Skills, *Aiming High: Raising the Achievement of Gypsy Traveller Pupils – a good practice guide*, notes in section 2.1 that the experience of schools and Traveller Education Support Services leads to the conclusion that the following factors – worth quoting in full – are important in influencing the achievements of Gypsy and Traveller pupils.

'The experience of racism and social exclusion: Gypsy Traveller pupils can be treated unfairly and less equally than others, often without intent and knowledge, because of policies and practices in place in some schools. For example, they are disproportionately represented amongst pupils who are excluded.

'Teacher knowledge and expectations: A lack of knowledge of the communities, lifestyles, cultures and languages can lead to schools being unaware that it is beneficial for pupils to see their home culture reflected in a positive way in the school curriculum and respected in school organisation. Low expectations, which may be based on misplaced ideas that the pupils will not be staying long in the school or unchallenged stereotypes, can lead to them not being encouraged to reach their potential.

'Parental education and aspirations: Many Gypsy Traveller parents have had little or no education or have had poor quality experiences, especially in secondary schools. They often have few literacy skills, making it difficult for them to know how best to support their children. Some parents also do not appreciate the relevance of the secondary curriculum to their children's future and see it as undermining their own values and aspirations for their children.

'Interrupted educational experience: Families may be working seasonally or are subject to unpredictable forced movement, hindering access to school or to a lower priority given to school attendance.'

In section 3.3, the good practice guide notes that 'Few of the Gypsy Traveller pupils currently in schools have had the opportunity to attend any form of pre-school or early years setting. Any child without any pre-school experience is already at risk of underachievement.'

## **5 Other serious omissions in the report**

It is not helpful, after the section on education, for the report suddenly to render Gypsies and Travellers invisible, presumably included in the category 'White other', when the issues that they face, especially if they are pursuing a traditional nomadic way of life, are markedly different from those faced by other 'White other' groups of people. This may be rooted in a serious problem from which Gypsies and Travellers suffer – the lack of adequate data collection and monitoring of inequalities. Unfortunately, the report's silence compounds this problem. Gypsies and Travellers have not been included to date as separate categories in national censuses (although this is likely

to change in 2011) and local authorities' biannual caravan counts are notoriously uneven in quality. This means that the Gypsy and Traveller Accommodation Needs Assessments currently being carried out by local authorities are also generally of poor quality. Accommodation need among Gypsies and Travellers, the preferences of Gypsies and Travellers in bricks and mortar housing (often against their expressed wishes) and site provision all need to be monitored effectively. So do the matters noted below. It is most unfortunate that the report was silent on these matters.

**5.1 University education** There is no mention of Gypsies or Travellers in the ethnic breakdown of achievement at university on page 61. If this is because of severe under-representation of Gypsies and Travellers in tertiary education, it would have been helpful to state this, since it reinforces the message that Gypsy and Traveller young people are suffering disproportionately from lack of access to the education system.

**5.2 Employment** There is no mention, either, of Gypsies and Travellers in the examination of employment penalties on page 63, although other ethnic groups are specifically mentioned. We find some of the phrasing on page 70 unfortunate. It is applied in this instance to Pakistani and Bangladeshi women but could be applied to others, including Gypsies and Travellers. 'The majority of inactive Pakistani and Bangladeshi women say they do not want to work because they are looking after the family and home.' Anyone who has looked after a family and a home will be well aware that this task constitutes work – hard, undervalued work of crucial importance to the general wellbeing of society now and to the creation of a decent society in the future. It is a pity that the report does not examine the case for the State paying wages for housework, as urged by a number of women's organizations across the world, or for strong State intervention in the housing market aimed at ensuring that an average single income is sufficient to obtain a mortgage capable of purchasing a decent family home, removing the current necessity for both parents in most 'couple families' to work for money. More imaginative thinking would have been helpful here.

**5.3 Health** There is no mention of Gypsies and Travellers as separate categories on page 75ff in the consideration of ill health and its relation to ethnicity, despite the fact that Gypsies and Travellers suffer extremely high levels of ill health and low life expectancy.

5.3.1 The report published in October 2004 by the University of Sheffield, *The Health Status of Gypsies and Travellers in England*, states (Executive Summary sections 11 and 12): 'Our findings confirm and extend the practice-based evidence on poorer health in Gypsy Traveller populations. There is now little doubt that health inequality between the observed Gypsy Traveller population in England and their non-Gypsy counterparts is striking, even when compared with other socially deprived or excluded groups and with other ethnic minorities. ... The roles played by environmental hardship, social exclusion and cultural attitudes emerge from the qualitative study, and are consistent with the finding there is a health impact of being a Gypsy Traveller over and above other socio-demographic variables.'

5.3.2 The Traveller Women's Health Project of Friends, Families and Travellers (one of TLRP's constituent organizations) reports the following:

- Primary Care Trusts have not kept records of Gypsies and Travellers as part of their ethnic monitoring. This omission makes it harder to know the extent of Gypsy and Traveller need.
- 'Modesty' rules and codes mean that many Gypsies and Travellers avoid sexual health screening, fearing that it will be viewed as a sign of promiscuity. Many Gypsy and Traveller women will not have had breast and cervical screening.
- Life expectancy among Gypsies and Travellers is accepted to be twelve years less than the national average.
- Gypsy and Traveller women have the highest maternal death rate of any ethnic group. An analysis of maternal deaths has found that most Gypsy and Traveller women receive a substandard level of care during their pregnancies.
- 29% of Gypsy and Traveller women have experienced miscarriage compared to 11-20% in the whole population.

- 17.6% of Gypsy and Traveller women have also been found to have suffered the loss of a child compared to 0.9 % of the population.
- On average babies born to Gypsy and Traveller women have a lower birth weight than babies born to non-Travellers.
- There are high levels of obesity and associated diabetes within the community.
- Mental health problems form a large part of the support work done by the health project, and the higher than average incidence of such problems at a national level is suggested also by the University of Sheffield report cited above.
- There is a high incidence of smoking among Gypsies and Travellers.

**5.4 Crime** There is no specific mention of Gypsies and Travellers in the section on crime and ethnicity on page 82ff, despite the fact that the report notes on page 83 that ‘it is obvious that groups which are more likely to fail at school are more likely to find themselves on the wrong side of the law.’ There is no discussion of the specific forms of criminalization to which Gypsies and Travellers are so often subjected: criminalization for being homeless (since those living on unauthorized encampments are very often legally homeless), criminalization for pursuing a nomadic way of life, and collective punishment for the crimes of specific individuals, whereby whole settlements are evicted because of the behaviour of certain of their members. Gypsies and Travellers are hugely over-represented in the criminal justice system, a fact which needs addressing in itself, but at the same time are often missed by inadequate forms of ethnic monitoring.

**5.5 Prejudice** There is no separate entry on prejudice against Gypsies and Travellers in Figure 4.1 on page 92 despite the fact that such prejudice remains widespread, is often expressed, and there appears to be significantly less shame attached to expressing it than is attached to expressions of prejudice against other groups, partly because of a lack of understanding that Gypsies and Irish Travellers are recognized by law as ethnic minorities protected by race relations legislation.

**5.6 Media portrayal** Nor is there mention of Gypsies and Travellers in Figure 4.2 on page 98 referring to the negative impact of media portrayal of various groups. Surely Gypsies and Travellers suffer particularly acutely from negative media coverage? Last year there was *The Sun's* very damaging ‘Stamp on the camps’ campaign, but this was only a particularly blatant example of a widespread phenomenon. Newspapers, particularly local newspapers, often deliberately stir up hatred of Gypsies and Travellers, giving very full coverage to the undesirable behaviour of some and failing to note the fact that most Gypsies and Travellers do not fit this stereotype; failing also, generally, to explain the context of too few legal sites and the problems caused by frequent evictions. When sites are under consideration in particular localities, press coverage can play a key role in whipping up what amounts to collective hysteria, leading in some cases to physical attacks and even death threats not only against Gypsy and Traveller people but against anyone speaking in support of them, and thus helping ensure the rejection of applications for sites even where there has been no history of conflict between Gypsies and Travellers and the settled population.

## **6. Despite these shortcomings in the report, we strongly agree with a number of the report’s observations and recommendations.**

6.1 We share the view expressed on page 102 that there are too few positive outcomes from the processes currently required by law to address inequality. It is regrettably the case that too often institutions do the minimum required to maintain the semblance of commitment to racial equality or Gypsy site provision without any real commitment to them. We are, for instance, concerned that some of the Gypsy and Traveller Accommodation Needs Assessments currently being conducted under the Housing Act of 2004 and related guidance from the ODPM may be inadequate, as some local authorities may wish to understate the number of Gypsies and Travellers in their areas so that they will not have to provide more sites. We are also concerned that some public bodies consistently fail to carry out the Race Equality Impact Assessments that they are legally obliged to

conduct when setting policy towards Gypsies and Travellers in their areas or planning evictions of unauthorized encampments or developments.

6.2 We share the view expressed on page 109 that there is a need to build a consensus on equality. This consensus needs to include an acceptance of the right to live a nomadic way of life or a life rooted in respect for the nomadic traditions of one's people, and for true parity of esteem for those who choose a way of life that does not involve living in 'bricks and mortar'.

6.3 We endorse the assertion on page 112 that there is a need for targeted action on persistent inequalities, especially (as noted on page 113) in early years and education, employment, health, crime and criminal justice, in each of which Gypsies and Travellers suffer particularly.

6.4 We agree that there needs to be a more systematic approach: that 'public bodies should look at the impact of their policies, programmes and other core activities on equality, as a matter of course'. We regret that at present many such bodies are failing to fulfill the responsibilities that they currently have towards Gypsies and Travellers under the Race Relations (Amendment) Act 2000 by failing to ensure that their policies towards them are subjected to Race Equality Impact Assessments.

6.5 We believe that the call made on page 114 for targeted work on prejudice is particularly important, especially – in the case of Gypsies and Travellers – the need to reduce prejudice against nomadic ways of life and the choice to live in a caravan rather than in conventional housing.

6.6 We agree that there should be a simpler legal framework (page 115) and that placing a positive duty on public bodies to work towards greater equality would be helpful – as long as it is actively enforced.

6.7 We agree also that Government and Parliament should 'focus a new integrated duty on the outcomes it is intended to achieve rather than the processes in place'. Outcomes, in the case of Gypsies and Travellers, should include among other things the actual construction of legal residential and transit sites and the granting of planning permission for Gypsies and Travellers to live on land that they themselves own – and not simply the completion of studies showing the urgency of the need to do so.

6.8 We agree that it would be helpful to establish an Equalities Select Committee (page 117) which would help to ensure that the provision of services for Gypsies and Travellers was seen within the context of provision for other sections of the community rather than an oddity, resented and stigmatized and provided on the basis of 'separate and unequal'. We agree that equality should be 'seen and treated as a priority integral to mainstream policy and services, and not as an optional add-on.'

6.9 We agree that Public Service Agreements and other public sector targets should seek to narrow equalities gaps by tackling the most severe disadvantage. We agree that this needs to involve 'disaggregation of data by group ... and specific targeting of groups accordingly.'

6.10 We agree that equality should be part of each public sector organization's performance management framework.

6.11 We also agree that 'the CEHR needs to play a more dynamic role in enforcement than has been possible for the equality commissions in the past' and that its enforcement role should be shared, under CEHR oversight, with the various public sector inspectorates. We believe that this would help to remind public sector bodies and employees of their legal responsibilities towards Gypsies and Travellers. It would remind them that our people are indeed people – not problems.

**Richard Solly, TLRP Policy Development Officer, 3 April 2007**