

Traveller Law Reform Project (TLRP) Email newsletter number 5 17 July 2008

***The Traveller Law Reform Project office will be closed
from Tuesday 22 July until Monday 1 September 2008***

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Housing and Regeneration Bill

The Housing and Regeneration Bill has completed its Lords Committee stage. The Bill offers security of tenure for residents of local authority Gypsy and Traveller sites, which is to be welcomed – but there are concerns about some aspects of the Bill. See http://www.travellerslaw.org.uk/pdfs/hr_bill_final.pdf for a full commentary on how the Bill will affect Gypsies and Travellers.

Jurisdiction in disputes on Mobile Homes Act sites

The department for Communities and Local Government is currently consulting on proposed changes to the way disputes are resolved on sites covered by the Mobile Homes Act 1983. Once the Housing and Regeneration Bill becomes law, local authority Gypsy and Traveller sites will come under the provisions of the Mobile Homes Act 1983, so the proposed changes to dispute resolution will affect residents of those sites as well.

The Government's preferred option, subject to the views of consultees, is to transfer jurisdiction for all matters that can currently go to the county court to a Residential Property Tribunal – except cases where the site owner is seeking to terminate the agreement, which would still be dealt with by the county court. If, following consultation, the Government decides to proceed with this option, it also proposes that agreements under the Mobile Homes Act should not be allowed to bind site owners and residents to resolving disputes through arbitration. You can read the Government's proposals at <http://www.communities.gov.uk/publications/housing/parkhomedisputes>

At present, some pitch agreements on Mobile Homes Act sites force residents who are in dispute with the site owner to accept arbitration by someone appointed by the site owner. TLRP believes that this is unfair, and the Government agrees. But TLRP disagrees with the Government on how to address this injustice. TLRP believes that residents should always have the right to take a dispute to the county court, where they may be eligible for legal aid if they cannot afford legal representation themselves. The Government believes that all disputes other than those where the site owner seeks possession of the pitch should be resolved by Residential Property Tribunals, where the parties in dispute have no right to legal aid. TLRP believes that site residents will need legal representation in such disputes, and should have the right to legal aid if they cannot afford to pay – so they must have the right to go to a court, not a tribunal.

You can read TLRP's response to the CLG consultation at http://www.travellerslaw.org/pdfs/MHA_2008.pdf

CLG consultation on other aspects of the Mobile Homes Act

Communities and Local Government is also planning to consult on other aspects of the Mobile Homes Act that would affect local authority Gypsy and Traveller sites once the Housing and Regeneration Bill becomes law.

A lot of concern was expressed by Gypsies and Travellers earlier this year about the Mobile Homes Act's arrangements for pitch assignment and succession. Many Gypsies and Travellers said that these arrangements would not work on local authority Gypsy and Traveller sites. The Mobile Homes Act gives the Secretary of State for Communities and Local Government the power to exempt such sites from these arrangements, and the CLG consultation will seek people's views on whether or not this should be done. The consultation document should be published in August.

Planning Bill

The Planning Bill has finished its passage through the House of Commons and received its Second Reading in the House of Lords earlier this month. It will be considered by a House of Lords Committee in October. The Bill introduces a new system for approving major infrastructure of national importance, such as airports, nuclear power stations, harbours and waste facilities, and replaces current regimes under several pieces of legislation. The objective is to streamline these decisions and avoid long public inquiries.

There is massive opposition to the Bill, especially from people concerned about climate change, those whose lives have been blighted by airport expansion and those concerned about an increase in the production of deadly radioactive waste.

In amending some of the existing planning regulations, the Bill may also have a particular impact on Gypsies and Travellers. There is concern that Gypsies and Travellers may be left out of Statements of Community Involvement and that those appealing refusal of planning permission may not be able to appeal to the Secretary of State or opt for a planning inquiry. TLRP has made its concerns known to the Government. It may be that in practice our fears will not materialise.

You can read TLRP's April briefing on the Planning Bill at http://www.travellerslaw.org/pdfs/planning%20bill_briefing.pdf.

Education and Skills Bill

The Government in its Education and Skills Bill intends to raise the compulsory education leaving age to eighteen, and to see all adolescents engaged in academic education, training or vocational apprenticeships. This programme will be obligatory and noncompliance could lead to prosecution. Although TLRP welcomes the efforts being made through the Bill to improve the quality and

flexibility of education and training for 16-18 year olds, there is great concern about the effect of introducing compulsion.

One matter of particular importance to many young Traveller women will be the Bill's interference with their right to choose to be full time mothers. Many Traveller women marry at age 16 or 17 and become mothers in the first year or two of marriage, and they have the legal right to choose to do so. It would, however, appear that, while an 18 year old mother has the right to be a full-time parent, a 16 or 17 year old mother does not, which raises issues of age discrimination. The insistence that any young mother in this situation should leave her young children in the care of others while attending structured education or training sessions will seem perverse to many Travellers. The Government should acknowledge that work in the home, particularly work as a mother, is every bit as valuable as work outside the home. Raising the next generation of citizens and workers is an honourable and very demanding occupation and should be recognised as such.

You can read TLRP's commentary on the Bill at http://www.travellerslaw.org.uk/pdfs/education_and_skills_bill.pdf.

The Bill is currently being debated in the House of Lords. Baroness Sharp, Liberal Democrat spokesperson on education, has proposed an amendment to be debated on Monday 21 July. The amendment would add a new clause after Clause 139, saying: 'It shall be the duty of all local education authorities to establish a Traveller Education Service which shall be resourced in proportion to the population of Gypsies and Travellers identified in the Gypsy and Traveller Accommodation Assessments required under the Housing Act 2004.' TLRP supports this amendment, for the reasons made clear in the commentary.

Gypsy and Traveller Accommodation Assessments

Since ODPM Circular 1/2006 was issued, following the Housing Act (2004), Gypsy and Traveller Accommodation Assessments (GTAA's) have been carried out and published for much of England, and all areas will have published GTAA's by the end of 2008. These accommodation assessments will inform development of policy at regional and local level, leading to pitch allocations to meet the assessed need.

There has been considerable development of Regional Planning Policy, with a number of single issue Partial Reviews of Regional Spatial Strategies under way. All local authorities are embarking on new Local Development Frameworks and are proceeding with Core Strategies (which outline proposed strategies for development) and Allocations Documents (which identify land for development).

A very significant proportion of GTAA's have been found not to be adequate for their main purpose – identifying the necessary numbers of pitches, both residential and transit, for Gypsies and Travellers. Very many of them make estimates of need that are much too conservative, often because they are based on unreliable caravan count figures. (Local authorities are required to count all Gypsy and Traveller caravans in their areas in January and July each year. These figures are widely regarded as too low, as some council officers spend no more than two hours on the exercise, suggesting that they have not left their desks. Nonetheless, the caravan count produces a figure which can be accepted as an absolute minimum.)

Despite this fact, some local authorities are challenging either their own GTAA's or their pitch allocation from their Regional Assembly on the grounds that the allocation is too high. Where local authorities have already suggested possible new sites for Gypsies and Travellers, opposition from local settled residents has sometimes reached hysterical proportions.

To read TLRP's recommendations about GTAA's and the planning process for site allocation, see http://www.travellerslaw.org.uk/pdfs/GTAA_commentary.pdf.

The Government has recently published the Count of Gypsy and Traveller Caravans as at 21st January 2008. The document can be found on the CLG website at www.communities.gov.uk/housing/housingmanagementcare/gypsiesandtravellers/gypsyandtravellersitedataandstat/.

Parliamentary debates on site provision

On 22 May, there was a debate in Parliament about the Final Report of the Independent Task Group on Site Provision and Enforcement for Gypsies and Travellers, which was published in December 2007. There seemed to be continuing cross-party consensus on the need to provide more authorised sites for Gypsies and Travellers. The debate can be found at <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080522/halltext/80522h0001.htm#08052290000001>.

On 18 June, James Gray, Conservative MP for North Wiltshire, led a debate in Parliament about Gypsy and Traveller sites in Wiltshire. Iain Wright MP, the Minister with responsibility for Gypsy and Traveller issues at the Department for Communities and Local Government, replied for the Government. You can read the whole debate at <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080618/halltext/80618h0005.htm#08061892000002>.

A number of misunderstandings were evident in the 18 June debate. TLRP has since written to James Gray MP and the other MPs who spoke. The TLRP letter, correcting some of these misunderstandings, should soon be available on the TLRP website, www.travellerslaw.org.uk.

Dale Farm

On 9 May the High Court Judge Justice Collins issued a reprieve to Travellers living at the Dale Farm Travellers' Site in Essex who had been facing eviction. Mr Justice Collins said the eviction order could stand but he ordered more time to investigate concerns on the needs and welfare of the families. On the same day, at a meeting of the Churches Network for Gypsies and Travellers at the Church of Our Lady of Good Counsel in Wickford, Essex, the Church of England Bishop of Chelmsford and the Roman Catholic Bishop of Brentwood endorsed the following statement, which had also received support from TLRP, Julie Morgan MP and Lord Avebury (Chair and Secretary respectively of the All Party Parliamentary Group on Gypsy and Traveller Law Reform):

'We welcome the judgement made today and believe that it is right for a forced eviction action at Dale Farm to be suspended and call for the creation of new pitches in the Basildon area under the Government's new accommodation policies for Travellers to be implemented as a matter of urgency. The shortage of Traveller sites was caused by the abolition in 1994 of the duty on councils to provide Traveller sites. We recognise that the shortage of Traveller sites has caused hardship and difficulties for both the Traveller and wider communities. It is now time for genuine dialogue to take place and we call upon local politicians and the media to make greater effort to foster an environment conducive to such debate. We commend the Essex Fire Brigade Service and Equalities and Human Rights Commission for initiating dialogue and a proposed series of talks between Travellers and Basildon Council.'

Dale Farm Housing Association, representing site residents, has made a complaint to Justice Secretary Jack Straw about the behaviour of Constant and Co bailiffs, the company which Basildon District Council had contracted to carry out the eviction of 86 families from the Dale Farm site. TLRP wrote in support of this complaint. Mr Justice Collins had expressed grave reservations during the February High Court hearing about the behaviour of the company. He said: 'Regardless of the outcome, I will request a serious rethink to the manner in which evictions take place and if the use of this firm of bailiffs is appropriate.'

CLG site design guidance

The department for Communities and Local Government has published a *Good Practice Guide on Designing Gypsy and Traveller Sites*. The guide can be found at <http://www.communities.gov.uk/publications/housing/designinggypsiesites>. The guide does not cover the particular needs of New Travellers, and CLG has suggested that it will publish further guidance on this matter.

There is some concern that the guide is too strong in discouraging working on sites, on the grounds that they are essentially residential. There is a need to ensure that sites are safe and that any work does not have a negative impact on site residents, but TLRP is concerned that it may be a mistake to be too prescriptive.

Gypsy Roma Traveller History Month

Gypsy Roma Traveller History Month was for the first time observed this year as a national event, sponsored by the Department for Children, Schools and Families (DCSF). Its purpose was to celebrate Gypsy, Roma and Traveller culture and history and to inform the wider community about the realities of Gypsy, Roma and Traveller life. Activities were held in many places throughout Britain.

There has been almost universal support among Gypsies and Travellers for the concept of the History Month, but much disquiet at what seemed to many to be a lack of consultation about the Month among community members. In particular, there was disagreement about whether the History Month should be observed in April or in June. This year June was chosen by DCSF, supported by some because it is the month in which Appleby Horse Fair, Cambridge Midsummer Festival and Epsom Derby occur. April was supported by others because International Roma Day, or Roma Nation Day, falls on 8 April. There are plans to consult more widely among Gypsies, Roma and Travellers to find out whether future History Months should be observed in April or June.

In late June, Julie Morgan MP, Chair of the All Party Parliamentary Group on Gypsy and Traveller Law Reform, proposed an Early Day Motion in the House of Commons, EDM 1858, which reads:

‘That this House notes that June is Gypsy Roma Traveller history month and that it is the first such celebration to be fully supported and endorsed by the Government and provides a tremendous opportunity for children in our schools to hear of the traditions of Gypsies, Roma and Travellers; and congratulates the large number of Gypsies, Roma and Travellers, libraries, schools, teachers and others who have worked hard to organise events around the country.’

The purpose of the EDM is to demonstrate support for having a Gypsy Roma Traveller History Month, in the hope that more funding will be available in future years. It is not to support observation of the History Month in one month rather than another. By 17 July, 59 MPs from the three major parties had signed the EDM. You may wish to ask your MP to sign it as well.

Single Equality Bill

The Government’s Equalities Office has published a document called *Framework for a Fairer Future*, which sets out what the Government intends to do with the Single Equality Bill which it plans to introduce in the next parliamentary session (after November) to replace the existing separate laws on race, gender and disability discrimination and protect people from other forms of discrimination. You can find the document at <http://www.equalities.gov.uk/publications/Framework%20FAIRER%20FUTURE.pdf>.

The document is short on detail and does not respond to many of the concerns expressed during the consultation on last year's Discrimination Law Review. The Government plans to respond to those concerns in a separate document to be published later.

TLRP AGM

TLRP held its Annual General Meeting, chaired by Rodney Bickerstaffe, on 2 April, in the House of Lords annexe at 1 Abbey Gardens, London SW1. You can read a report of the meeting at http://www.travellerslaw.org.uk/pdfs/AGM_2008.pdf.

TLRP's Annual Report for 2007-08 can be found at http://www.travellerslaw.org.uk/pdfs/TLRP_annual%20report_2007.pdf.

Travellers Advice Team loss

TLRP notes with great sadness the tragic, unexpected and premature death of Bobbie Kelly of the Travellers Advice Team in Birmingham on 16 June and extends sympathy to her family, friends, colleagues and clients. Bobbie was a very well loved member of the team and will be sadly missed.

Following Bobbie's death, the team needs new workers, and the Community Law Partnership, which employs the team, wishes the following details to be advertised widely.

The Community Law Partnership

A category 1 firm with contracts in Housing and Welfare Benefits which remains committed to the provision of high quality publicly funded legal services to those in housing need invites applications for the following posts:

1. Gypsy and Traveller Telephone Helpline Adviser funded by Community Legal Advice – ref A4
2. Solicitor/Senior Case Worker for the Travellers' Advice Team – ref A5

Closing date for applications: Friday 29 August 2008

For application pack please write, phone or e mail, quoting appropriate reference, to The Community Law Partnership, 4th Floor, Ruskin Chambers, 191 Corporation St, Birmingham, B4 6RP.

Tel: 0121 685 8595 Email: office@communitylawpartnership.co.uk

The Community Law Partnership operates a fair recruitment policy and does not discriminate on the grounds of race, gender, sexual orientation, age or religious belief.