



## Gypsies and Travellers: camp sites and trespass

Standard Note: SN/SC/1127

Last updated: 11 February 2008

Author: Christopher Barclay  
Science and Environment

This note describes some law relating to Gypsies (Roma) and Travellers. It mainly covers issues relating to camp sites and trespass, including the *Anti-Social Behaviour Act 2003*. The issues arising when Travellers buy land and undertake unauthorised development upon it are covered in another note – [Gypsies and Travellers: unauthorised development](#). That note also includes the plan put forward by Michael Howard in March 2005. Another note, [Gypsies and Travellers: Parliamentary Activity](#) covers Parliamentary activity, including Private Members Bills and Select Committee reports. Issues relating to Article 8 of the European Convention on Human Rights are covered in [Human Rights Act and planning](#).

### Contents

A.	Introduction	2
B.	The Present Legal Position	2
1.	The Criminal Justice and Public Order Act 1994	2
2.	The European Convention on Human Rights	2
3.	The <i>Connors</i> case and the <i>Leeds City Council</i> case	3
4.	Difficulties faced by Gypsies	4
C.	The Anti-Social Behaviour Act and the 2004 Government Guidance	5
1.	The Anti Social Behaviour Act 2003	5
2.	The guidance on managing unauthorised camping, 2004	6
3.	Education	9
D.	Does current law allow greater action against illegal encampments?	9
E.	Ethnic Status	11
F.	The cost of illegal camping	12
G.	The Joint Human Rights Committee	13
H.	New Guidance published, February 2006	14
I.	More money for Gypsy Sites	15
J.	Will provision of sites solve the problem?	16

## **A. Introduction**

There are many aspects of the Travelling Community about which Parliament might be concerned, including problems that Travellers face in gaining access to education and social services. Unfortunately, most concern derives from illegal camping. Clearly that does not do justice to the Travelling Community. However, it does reflect serious problems in particular areas.

## **B. The Present Legal Position**

### **1. The Criminal Justice and Public Order Act 1994**

This Act removed the obligation upon local authorities to supply caravan sites. It also amended the existing law so that Gypsies could be moved on without such sites necessarily being available. It looked at the time as if the Act provided considerable powers for local authorities to move on Gypsies without incurring any corresponding obligation. In practice, however, the powers have not been greatly used, partly because of legal judgements interpreting strictly the obligations of the authorities with respect to other welfare law.

To some extent, the legal position reflects the range of views held about the Travelling Community. The police and local authorities theoretically have strong powers to move travellers on, particularly under the *Criminal Justice and Public Order Act 1994*, and the police can confiscate their caravans. However, there are also strong forces against the use of those powers. First, there is public opinion. Local police may not want to be shown on television to the rest of the population forcibly arresting or moving on a community involving women and children. Second, there are rights enshrined in other legislation with respect to welfare, including care for children and education. A court has ruled that the welfare position of each Traveller must be considered before any eviction.<sup>1</sup> That has proved an important ruling, deterring many authorities from trying to move Gypsies on. If there is a changing group of Gypsies on the land, the local authority may find that by the time it has investigated the needs of one group, there are now some different people on the land as well, so the whole process has to start again.

### **2. The European Convention on Human Rights**

The third constraint is the European Convention on Human Rights. It is true that a case at the European Court of Human Rights in 1996 was decided in favour of the UK Government, supporting the view that human rights are not infringed by the requirement for planning permission when siting a caravan on one's own land.<sup>2</sup> However, the *Sweet & Maxwell Encyclopedia of Planning Law and Practice* suggested some comfort for Gypsies in the

---

<sup>1</sup> R v Lincolnshire County Council, ex parte Atkinson; R v Wealden District Council, ex parte Wales and ex parte Stratford; Queen's Bench Division (Sedly J), 31/8/95

<sup>2</sup> Buckley v United Kingdom (23/1995/529/615); European Court of Human Rights; 26 September 1996 *Independent Law Report* 10 October 1996

ruling.<sup>3</sup> It suggested that the majority was persuaded to side with the UK Government because of the care with which the responsible authorities had evaluated the rival claims of planning controls and respect for an individual's home. It suggested that the Court might be less sympathetic in cases of eviction under the 1994 Act (which had not been used in this particular case).

One way of looking at the position would be to suggest that the availability of a power to remove Gypsies from land without offering them anywhere else to go is not in practice a viable option in view of the framework of legislation protecting various rights of individuals.

### **3. The *Connors* case and the *Leeds City Council* case**

A case at the European Court of Human Rights in May 2004, *Connors v. the United Kingdom*, no. 66746/01 (Sect. 1) (Eng) – (27.5.04), granted the 20,000 Gypsies living in caravans on local authority sites the same tenancy rights as council house tenants. The *Times* reported in May 2004:

Local authorities previously had the right enshrined in law to evict Gypsies and Travellers without having to prove any justification, and without those evicted having any right to challenge the decision in court. But the European Court of Human Rights judged that this was against their fundamental right to “a respect for private and family life”. It also said that not giving people in caravans the same rights of redress as people living in houses amounted to discrimination.<sup>4</sup>

Further details are available on the ECHR website. The relationship of this case to UK law was tested in a case in which Leeds Council had been trying to evict a family of travellers from public playing fields. The House of Lords in this case dealt with the question of whether an eviction was incompatible with the European Convention on Human Rights. The *Times* reported on the judgement:

The travellers had claimed that Leeds City Council had breached their human rights under article 8 of the European Convention by evicting them from the land at Wakefield. But in a decision that will determine dozens of similar cases, the law lords said that their links with the site were not sufficiently established for it to be a home within the meaning of the convention, and therefore protected. Lord Hope of Craighead noted that they had been at the recreation ground for only two days when proceedings against them began...

Lord Bingham of Cornhill, the senior law lord, ruled: “There is nothing to suggest they could show continuous links with the land, as would be necessary if it were to be regarded as their home. If, however, the land is their home, it is plain that their eviction was in accordance with domestic proper law, which had the legitimate end of enabling public authorities to evict unlawful squatters from public land and restore it

---

<sup>3</sup> *Monthly Bulletin*, September 1996 p 2

<sup>4</sup> “Gypsies win same rights as council house tenants”, *Times*, 29 May 2004

to public (in this case recreational) use. I can see no ground on which such action could be stigmatised as disproportionate, despite the personal afflictions to which these appellants were unfortunately subject.”<sup>5</sup>

#### **4. Difficulties faced by Gypsies**

Some newspaper articles imply that evictions cannot take place at all, but that is not correct. The 1994 Act has had an effect, through removing from local authorities the duty to provide Gypsy caravan sites, as the following open letter in *Travellers Times* (August 2000, p 7) notes:

Since 1994 local councils have closed down 49 caravan sites which has put many of us back to travelling the highways and byways of this great country. We cannot stop more than a few nights at a time, we are told or ordered to move on. So we do. But it repeats itself over and over again, from John O’Groats to Lands End. Councils move us on to other councils.

A book by the Cardiff University Traveller Law Research Unit states that councils and police forces across the UK have been wasting up to £18m each year on evicting Gypsies and travellers from illegal encampments. It argues that that money should instead be spent on legal camps for those affected.<sup>6</sup>

In an adjournment debate on 19 May 2004, John Battle described how difficult the position of Travellers often is:

We cannot toughen up the law to move Travellers on if there is nowhere for them to go. Recently, in the neighbourhood of Wortley in my constituency, 12 caravans were parked on the Oldfield Road football pitches, which were moved off. They moved to Farnley park over the Easter weekend, making local football and cricket impossible. They were evicted and moved down to Hunslet, where they were evicted again and moved to another public park, Western Flats, in Wortley. They have been driven off the Western Flats and are now at Wortley recreational ground. They have received a notice to move on Friday.

Those 12 caravans belong to one family, who have lived in Leeds for generations. The family group includes an elderly man with Alzheimer's, a young child with pneumonia, a two-month-old baby who has never received appropriate medical attention because of the constant movement of the family, and a mother who recently collapsed and was in hospital for two days. Some of the children go to local schools in my constituency and are taken there every day by the Travellers education support unit. Since January, the caravans have been moved 50 times, so the children do not know where they are going home to after school. That is quite apart from the fact that the caravans are on sites without water or toilets, and are thus insanitary and quite inappropriate for families.

---

<sup>5</sup> “Lords ruling puts traveller families on notice to quit illegal camps”, *Times*, 9 March 2006

<sup>6</sup> “Gypsy legal action ‘waste of money’”, *BBC News Online*, 4 September 2002

The endless round of court notices and eviction enforcements mean that families are pushed from pillar to post. Everybody, from settled neighbours to Travellers and their families becomes totally exasperated, and council officials and the local police are caught in the middle of many angry conflicts. The cause of the problem is the shortage of sites or pitches on which the caravans can stop. In practice, 30 per cent. of Travellers in Britain are hounded from one unauthorised place to another, with all the associated problems of unofficial camping, clean-up costs and no chance of proper education for the children. Furthermore, poor living conditions have a detrimental impact on the health of Traveller families, who have the lowest life expectancy and the highest child mortality rates of any group in Britain.<sup>7</sup>

## **C. The Anti-Social Behaviour Act and the 2004 Government Guidance**

### **1. The Anti Social Behaviour Act 2003**

The Labour Government has continued to operate within the same framework as the previous one, although with an increasing emphasis on the need for local authorities to provide sites. Parts of the *Anti-Social Behaviour Act 2003* came into force on 1 March 2004. They strengthen police powers, by amending the 1994 Act. S.60 of the 2003 Act inserted section 62A in the 1994 Act. The main part comes in sub-sections (1) and (2):

- (1) If the senior police officer present at a scene reasonably believes that the conditions in subsection (2) are satisfied in relation to a person and land, he may direct the person –
  - (a) to leave the land
  - (b) to remove any vehicle and other property he has with him on the land.
  
- (2) The conditions are-
  - (a) that the person and one or more others (“the trespassers”) are trespassing on the land;
  - (b) that the trespassers have between them at least one vehicle on the land;
  - (c) that the trespassers are present on the land with the common purpose of residing there for any period;
  - (d) if it appears to the officer that the person has one or more caravans in his possession or under his control on the land, that there is a pitch on a relevant caravan site for that caravan or each of those caravans;
  - (e) that the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.

In other words, the police will be able to move on Gypsies or Travellers if there is a pitch on a relevant camp site (defined as one in the area of that local authority). In a sense the police already have similar powers. However, the new wording may make it easier for them to

---

<sup>7</sup> HC Deb 19 May 2004 cc1070-1

satisfy the courts that the Gypsies will not lose out on their social security and education entitlements.

However, two questions arise. First, the police would retain the option of not taking action, which is currently what they often prefer. A large-scale removal operation requires many police officers and risks resulting in violence. Second, it is unclear how the new system would operate, unless local authorities provide many more caravan sites.

In June 2005, the first use of the new powers was reported:

Wakefield Council has become the first local authority in the country to use the Anti-Social Behaviour Act to combat illegal encampments. Under Section 30 of the 2003 Act, West Yorkshire Police will have powers to immediately remove travellers or arrest them if they enter five designated areas in Wakefield...The areas have been occupied by illegal encampments in the past [and] were designated after consultation with police and residents.<sup>8</sup>

However, that idea was soon dropped. On 21 June, it was reported that Wakefield police had abandoned the idea after admitting that the five designated sites were probably illegal:

In a statement, West Yorkshire police said they had withdrawn the dispersal orders despite opposition from the council because they would have proved unworkable. "We have to weigh the value of using public money to fight a test case in the courts which, on the advice of our own legal experts we would almost certainly lose."<sup>9</sup>

In the summer of 2005, the *Travellers' Times* reported condemnation of this provision:

Cheshire Police's Chief constable Peter Fahy has described the law as unworkable... "We [the police] are wasting huge amounts of time and effort in moving people on. It's a scandalous waste of money." His views were echoed by other senior police officers at the conference. Inspector Mark Watson from Cheshire Police described Section 62 [inserted by the Anti-Social Behaviour Act 2003] as unenforceable. We have seen tensions in communities rise because there is nowhere for people to go," he said. "The last thing we want is to see people being evicted just for the sake of it."<sup>10</sup>

## **2. The guidance on managing unauthorised camping, 2004**

On 1 March 2004, the Government issued Guidance on Managing Unauthorised Camping, to coincide with bringing s.60 of the Anti-Social Behaviour Act into force.<sup>11</sup> The following passage shows the aims of the guidance:

---

<sup>8</sup> "Council uses Anti-Social Act to tackle travellers", *Planning*, 3 June 2005

<sup>9</sup> "Anti-social traveller plan halted", *BBC News Online*, 21 June 2005

<sup>10</sup> "Traveller law 'unworkable' say police", *Travellers' Times*, Summer 2005

<sup>11</sup> <http://www.communities.gov.uk/index.asp?id=1153500>

1.4 This Guidance takes account of all the changes outlined above. Its overall objective is to assist local authorities, police and others to tackle unauthorised camping to minimise the disruption it can cause. In doing this, it aims:

- To help strike an appropriate balance between the needs and legitimate expectations of members of the settled community, local businesses and other landowners, and Gypsies and Travellers.
- To set out recommended courses of action which all local authorities and police forces should follow to provide an effective response to unauthorised camping in their areas.
- To encourage a more consistent approach across the country, building on current good practice and sharing experience.
- To be practical yet creative in the face of a difficult reality.
- To show how to engage the settled and Gypsy/Traveller communities in order to achieve 'buy in' to the strategy, which is vital to ensure effective delivery.

1.5 The Guidance is primarily aimed at local authorities and police who share responsibility for managing unauthorised camping, but will also be relevant to all bodies likely to be involved in partnership approaches. While the Guidance is advisory, local authorities and police are strongly advised to bear it mind when devising and implementing their approaches, and are reminded that the courts may consider it as a material consideration in eviction or other enforcement decisions.

The Guidance recommends that local authorities develop local policies for dealing with unauthorised camping:

The objectives of the policy are:

- To balance the rights and needs of resident communities with those of Gypsies and Travellers.
- To manage unauthorised encampments in an efficient and effective way taking account of the potential level of nuisance for local residents and the rights and responsibilities of Gypsies and Travellers.
- To work with partners in other authorities, the voluntary sector and the Police to address issues of social exclusion amongst Gypsy and Traveller communities.

The Guidance states that all local authorities should review the provision of sites for Gypsies and Travellers. Gypsies and Travellers should be involved in site planning and design. The provision of sites should be part of the policy of coping with unauthorised camping:

If authorised sites are to contribute effectively to reducing the disruption caused by some unauthorised camping, site management and management of unauthorised camping must be integrated. At the least:

- Local authority and police officers dealing with unauthorised encampments should have information about vacancies on local authority sites within their area, and ideally in neighbouring areas. Ideally, local authority officers should also be prepared to assist unauthorised campers without local

accommodation to find places on privately-owned sites and in permanent housing if this is requested.

- There must be close working between site managers and local authority and police officers dealing with unauthorised camping over allocations of pitches on sites. Site managers may be aware of issues around Gypsy/Traveller group and family compatibility, which must be taken into account when allocating pitches on residential sites.
- More specifically, where police are seeking to use the new powers under s62A of the Criminal Justice and Public Order Act 1994 (inserted by the Anti-social Behaviour Act 2003), a police officer must consult the local authorities in whose area the encamped land lies about the availability of suitable pitches on relevant sites. ODPM and the Home Office will be consulting in detailed guidance on the use of these powers, which will then be incorporated into a revised version of this Guidance.
- Transit sites and stopping places must be managed to prevent Gypsies and Travellers staying longer than the maximum permitted stay. Site turnover must be maintained if such sites are to continue to cater for Gypsies and Travellers with a nomadic lifestyle. Reluctance to move from transit sites and stopping places may indicate a need for further residential site provision.

The following passage indicates the response considered appropriate by the Government in relation to unauthorised camping, although the full Guidance provides far more detail;

5.5 Wherever possible, local authorities and/or police should seek to prevent Gypsies and Travellers from establishing an encampment in an unacceptable location. Where this proves impossible, they should attempt to encourage the unauthorised campers to move to an authorised site where available. Identification of possible 'acceptable' sites could assist local authorities and the police in the management of unauthorised encampments in circumstances where there are no available pitches on authorised sites. If the unauthorised campers refuse to move from an unacceptable location, eviction processes (including appropriate welfare enquiries) should be commenced.

5.6 To be effective, such an approach requires a very swift response from the local authority and/or police. Ideally, initial contact should be made within 24 hours of the encampment being established.

A passage follows about the need to make welfare enquiries. The Guidance then considers the process if the local authority decides to go ahead with eviction. It describes the powers under the *Criminal Justice and Public Order Act 1994* and also the civil powers available to a landlord. He can obtain a possession order from civil courts requiring the removal of the trespassers from property, including land.

In other words, the Guidance seeks to strike a balance between the interests involved. It is not just a new procedure to allow easier eviction.

### **3. Education**

On 1 July 2003, Schools Minister Stephen Twigg announced new guidelines to help Gypsy children. He said:

"All young people should be able to achieve their potential, whatever their ethnic and cultural background and whichever school they attend. Gypsy Traveller pupils present many challenges for schools. There are issues of racism, discrimination, stereotyping, and a need for better links between their parents and teachers. Schools must overcome these challenges, and make sure that the pupils get as good an education as everyone else. The Government is committed to supporting all schools in taking a fresh look at their procedures for Gypsy Traveller pupils, and creating a welcoming environment in which they can succeed. Many schools are already doing wonderful work in this area, but others still have some way to go, and we are here to help them."<sup>12</sup>

#### **D. Does current law allow greater action against illegal encampments?**

In an adjournment debate in the House of Commons, Edward Garnier QC described how the law operated in his constituency when Gypsies set up an illegal encampment in a lane between fields. They caused considerable problems including drug dealing, noisy parties and dogs killing sheep, until the fields could no longer be used for grazing. He then argued that the 1994 Act could be used more often than it is.

Local authorities and the police are misleading themselves about the Criminal Justice and Public Order Act 1994 and recent case law. Section 61 gives the police a power to direct trespassers to vacate land. That power arises if the police believe

"that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and-

(a) that any of those persons has caused damage to the land or to property on the land or used threatening . . . behaviour towards the occupier . . . or

(b) that those persons have between them six or more vehicles on the land".

The police need only have reasonable grounds for believing the persons concerned to be trespassers... Section 77 enables a local authority to serve a direction requiring persons to vacate land, the failure to comply with which may also constitute a criminal offence. However, there are some important differences between section 77 and section 61. The power in section 77 arises if persons are residing in only one vehicle on land in an authority's area. The requirement of at least six vehicles does not apply. It applies if vehicles are located on highway land, unoccupied land or occupied land without the consent of the occupier.

---

<sup>12</sup> DFES Press Notice 2003/0129, *We must give Gypsy traveller children more support at school* – Twigg, 1 July 2003

Even for an occupation of fewer than six vehicles, there is no requirement that any of the criminal conduct referred to in section 61 should have occurred for section 77 to apply. An offence is committed under section 77 when a person knowing of the direction fails to leave the land as soon as practicable...

Local authorities and police forces have placed reliance on the case of *R. v. Lincolnshire county council and Wealden district council ex parte Atkinson*, which was decided by Mr. Justice Sedley in 1996. They have also been influenced by the Department of the Environment circular 18/94. That case and that circular gave some police forces the false impression that the same principles enunciated by the judge in the Wealden case apply to orders issued by the police or local authorities under the 1994 Act. Some police forces think that inquiries about education, housing, social service needs and similar matters have to be made before a local authority direction can be made, and that, before the police can invoke their powers under the Act, account should be taken of the personal circumstances of the travellers.

The judge in the Wealden case did not analyse section 61 of the 1994 Act in detail. His decision was based as much on the statutory duties placed on local authorities under the Children Act 1989 and the Housing Act 1985, as well as the obligation on local education authorities to provide education for all children of school age in their area. The Wealden judgment does not support the view that a local authority or chief constable owes a duty of care to trespassers who are the subject of action under section 61. The function of the police is to enforce the law. It is not their primary duty to take a view on social welfare. There is no legal basis for asserting that the police are under a legal duty to take social factors into account before acting under section 61. The annexe to the Home Office circular 45/94 does not suggest that the Wealden case is relevant, or that any such duty applies...<sup>13</sup>

A more recent adjournment debate summed up the problem neatly, with the constituency member describing the extensive disruption caused by the unauthorised Gypsy encampments. The Minister pointed out that the site had been derelict for 25 years, described the legal options that had not been taken up and regretted that the council was making no provision for authorised sites in its district plan.<sup>14</sup>

In a Westminster Hall Debate on 15 January 2002, the Minister (Angela Eagle) stressed that travellers should be accorded the same human rights as others. She argued that human rights considerations did not prevent the use of law to prevent illegal trespass leading to antisocial or criminal behaviour:

The right hon. Gentleman might be interested in a recent case in the High Court in which section 61 of the Criminal Justice and Public Order Act 1994--the part that encompasses police powers--was challenged and found not incompatible with the Human Rights Act 1998. I hope that that is another reassurance that he will take away with him. Each operation by the police is subject to challenge on the same grounds,

---

<sup>13</sup> HC Deb 16 July 1997 cc 367-373

<sup>14</sup> HC Deb 10 May 1999 cc 84-96

so the police must bear the Human Rights Act in mind. However, within the context of what I have just said--that all people's rights are equal in our society--if people behave in an antisocial or criminal way, or in some of the ways that the right hon. Gentleman outlined, the full force of the law can and should be brought to bear...<sup>15</sup>

A PQ in January 2007 showed the extent of enforcement action in Kent:

Records show that in 2005 the force recorded 136 unlawful encampments of which approximately 50 were closed as a result of enforcement. In 2006 it recorded 141 unlawful encampments. Of these 58 encampments were closed as a result of enforcement, while a further 75 were resolved when the trespassers left voluntary, most likely following discussions with the police or other parties. A breakdown of the enforcement figures show that 10 of these cases were resolved directly by police using the powers under section 61 and 62 of the Criminal Justice and Public Order Act, while the others followed action by other partners under the same Act, or by bailiffs or upon a court direction.<sup>16</sup>

## **E. Ethnic Status**

Two areas of law need to be considered.

First, there is the law (mainly planning law) relating to caravan sites. The question of provision of caravan sites does not depend upon whether the recipients are members of an ethnic minority. The Department of the Environment Circular on Gypsy Sites and Planning contains a definition:

“Gypsies” are defined in section 16 of the 1968 [Caravan Sites] Act as “persons of nomadic habit of life, whatever their race or origin”. Reference to Gypsies in this Circular are references to Gypsies in that sense. The term does not include members of an organised group of travelling showpeople or circus people.<sup>17</sup>

The term “Traveller” is often used instead but it amounts to the same thing in this context, since that definition of Gypsy is so broad. The consequence is that local authorities are encouraged to provide caravan sites for all types of travellers, including Irish Tinkers and urban drop-outs. Some Romanies would like a different definition, to include some reference to a family tradition of a nomadic way of life.

Second, there is law relating to race discrimination. The Court of Appeal in 1988 confirmed that “Gypsies”, in the original sense of Romanies, are legally recognised in Britain as an ethnic group (under the terms of the 1976 Race Relations Act). The Commission for Racial Equality (CRE) brought a case of discrimination against a publican who displayed a notice

---

<sup>15</sup> HC Deb 15 January 2002 cc 67-69 WH

<sup>16</sup> HC Deb 22 January 2007 c1537W

<sup>17</sup> Department of the Environment Circular 1/94, *Gypsy Sites and Planning*, 5 January 1994

saying “No travellers served”. The Court ruled that a sign saying “No Gypsies served” would be discriminatory but that “Traveller” was not a synonym of “Gypsy”, so that the sign “No traveller served” was not discriminatory. That judgement is probably the reason why most of the abuse in newspapers is against travellers rather than Gypsies.

“Irish Travellers” (sometimes called “Irish Tinkers”) are a separate group of traditional travellers. According to one book:

Some say they are the descendants of peasants driven off their lands by Cromwell but there is historical and linguistic evidence for placing their origin as a separate ethnic group much earlier, even before the coming of the Celts to Ireland.<sup>18</sup>

The same book (p 198) describes their language:

The Irish Travellers used to speak a variety of Irish using many words from vocabularies known as Gammon or Shelta. They now speak a variety of English known as cant, but incorporating the same words. Sometimes a whole sentence will be in the cant.

Their status as an ethnic minority would relate to the test used in the case cited above, when the Appeal Court ruled that Gypsies were an ethnic group:

Because they have a common history, culture, oral literature and practices of a religious nature they fit the so-called Mandla criteria (established in the House of Lords when it was decided that Sikhs were an ethnic group).<sup>19</sup>

Irish Travellers would appear to qualify.

## **F. The cost of illegal camping**

The National Farmers Union surveyed 2000 members in September 2003 and found that about 80% had been affected by illegal camping. The total costs to farming were estimated at £100m a year. Key findings of the survey of 2,000 farmers and growers included:

§ More than half say the number of instances involving illegal travellers has increased in the last five years.

§ The biggest problem caused by illegal travellers is the dumping of rubbish, with over 80% of respondents having experienced this.

§ More than 20% have been the victim of physical threats, over half have had equipment stolen and in nearly 10% of cases, livestock have been hurt.

§ 70% of farmers said the costs – which include legal fees, cleaning up waste and repairs – were around £500 a year.<sup>20</sup>

---

<sup>18</sup> D.Kenrick & Colin Clark, *Moving on: The Gypsies and Travellers of Britain*, 2000 (?), p 20

<sup>19</sup> D.Kenrick & Colin Clark, *Moving on: The Gypsies and Travellers of Britain*, 2000 (?), pp 70-71

<sup>20</sup> NFU Press Notice, “Rural outlaws’ cost farmers £100 million a year, 7 November 2003

## G. The Joint Human Rights Committee

On 31 March 2005, the Joint Committee of the House of Commons and the House of Lords on Human Rights published a report on the UN Convention on Elimination of Racial Discrimination (CERD). Amongst other things, the committee called for a restoration of the duty upon local authorities to provide sites for Gypsy accommodation:

102. The House of Commons Select Committee on the Office of the Deputy Prime Minister, in a Report on Gypsy and Traveller Sites published in November 2004, estimated that over 3,500 Gypsies and Travellers, 20% of the Travelling community, have no legal place where they can stop their caravans. These caravans are therefore on unauthorised encampments and their occupants are defined as homeless under the Housing Act 1996. In addition, these encampments are often a source of tension between Gypsies/Travellers and the settled community. The G&TLRC state in their evidence that in England there is a shortage of 4,500 transit and residential pitches.

103. The ODPM Select Committee recommended that the Government should reintroduce a statutory requirement for local authorities to provide sites for accommodation of Gypsies and Travellers in their areas. The G&TLRC also considered this essential, and told us that, without a statutory obligation to provide accommodation, local authorities were unlikely to take action to provide for the needs of their community. **In light of the inequalities in the provision of accommodation for Travellers as compared to accommodation for the settled community we support the need for a statutory duty on local authorities to provide or facilitate the provision of accommodation, in order to fulfil the State's obligations under CERD, in particular under Article 2.2 (positive measures to ensure equality for ethnic groups) and Article 5(e)(iii) (equality in housing).**

The Committee also criticised the use of the Anti-Social Behaviour Act against unauthorised encampments:

### Unauthorised encampments

113. In our scrutiny of the Anti-Social Behaviour Bill during its passage through Parliament, we raised concerns that these provisions gave rise to a significant risk of incompatibility with ECHR rights, in particular the right to respect for private life and the right to peaceful enjoyment of possessions. **We reiterate that concern here. We also consider that, given the disproportionate impact of the measures on the Gypsy and Traveller community, there is a significant risk that they could be implemented in a way that is indirectly discriminatory in breach of CERD. These considerations should be central to implementation of these powers, the application of which should be monitored to ensure against discrimination.**<sup>21</sup>

---

<sup>21</sup> Human Rights Committee, *The Convention on Elimination of Racial Discrimination*, 31 March 2005 HC 496, 2004-5

## H. New Guidance published, February 2006

On 2 February 2006, the Government published the long-awaited Planning Circular 01/06: Planning for Gypsy and Traveller Caravan Sites.<sup>22</sup> This was part of a balanced package also including draft measures to improve planning enforcement. Those parts are covered in another note (SN/SC/3248).

There has been a growing shortage of authorised sites since the duty on local authorities was repealed in 1994. This has meant that in areas without enough authorised sites, Gypsies and Travellers are forced to move from one unauthorised site to another. Under the Housing Act 2004, local authorities will have to assess the need for Gypsy and Traveller accommodation in their area. Guidance on carrying out Gypsy and Traveller accommodation assessments is also published today.

At the same time, new planning guidance obliges local authorities to do more to identify alternative appropriate sites. The ODPM today confirmed that local authorities will need to identify appropriate land for Gypsy and Traveller sites through the planning system, to deal with the growing shortage of sites and prevent unauthorised sites in problem locations. This approach to site provision was consulted on last year and has now been confirmed in Planning Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

Where more sites are needed, local authorities will be expected to identify appropriate land, working where necessary with neighbouring local authorities and the Regional Assemblies.

Planning intervention powers may be used where local authorities ignore their responsibility under the planning system...

Also published today is draft practice guidance for local authorities: Gypsy and Traveller Accommodation Assessments, to help them meet their obligations under the Housing Act 2004 to assess whether more sites are needed in their area, in the same way as they do for bricks and mortar housing. The guidance is available at: <http://www.odpm.gov.uk/gypsiesites>.<sup>23</sup>

A PQ in May 2007 shows how much has been done since the Circular:

**John Mann:** To ask the Secretary of State for Communities and Local Government which local authorities do not meet the minimum standards set in relation to the provision of travellers' sites.

**Meg Munn:** The Government have established a new framework to increase the number of authorised Gypsy and Traveller sites in line with need. Local authorities

---

<sup>22</sup> ODPM Planning Circular 01/06, *Planning for Gypsy and Traveller Sites*, 2 February 2006  
<http://www.communities.gov.uk/index.asp?id=1163380>

<sup>23</sup> ODPM Press Notice, *Better enforcement and more authorised sites needed to address problem Gypsy and Traveller sites*, 2 February 2006

are required to undertake an assessment of the accommodation needs of Gypsies and Travellers in their area, and we understand that these assessments are completed or underway in 90 per cent. of authorities. Regional assemblies then determine need at a regional level and allocate pitch numbers to individual local authorities in regional spatial strategies.

Local authorities will then need to identify land to deliver the pitch numbers identified in their development plan documents.<sup>24</sup>

In July 2007 an adjournment debate presented the familiar list of problems resulting from unauthorised encampments. The reply by the Minister (Iain Wright) stressed the benefits of the new policy:

Site provision will reduce the amount of resources that authorities spend on costly enforcement action. As my hon. Friend mentioned, this has been estimated by the Commission for Racial Equality at £18 million a year, and described by the Audit Commission in relation to one local authority as a "wasteful use of resources". Bristol city council has seen its enforcement costs drop from £200,000 to £5,000 a year since building a new authorised site. One result of that saving has been that its leisure services department has been able to spend an additional £40,000 a year improving the environment through investment in local parks and open spaces. I am sure that that approach is relevant and pertinent to my hon. Friend's experience, and I hope that she will take it up and begin to implement it in her constituency.

The provision of authorised sites also makes it quicker and easier to take enforcement action where unauthorised camping does take place. A range of powers are available to landowners, local authorities and the police to deal with unauthorised encampments, where Gypsies and Travellers camp on land that they do not own. Those range from common law powers and civil procedures in the county court, to the powers of local authorities and the police to direct trespassers to leave land in certain circumstances.<sup>25</sup>

## **I. More money for Gypsy Sites**

On 11 December 2007, the Government announced a further £97m to support Gypsy sites over the next three years:

Communities Minister Iain Wright today announced a further £97 million in Government funding to help local councils meet the housing needs of Gypsy and Traveller families in their area. The funding is part of a package of new measures aimed at cutting the number of unauthorised sites in inappropriate locations, such as car parks or lay-bys. The Gypsy and Traveller site grants will be available for councils to deliver new and refurbished sites for Gypsies and Travellers in their areas. The grants cover 100 per cent of the cost of local council schemes that provide

---

<sup>24</sup> HC Deb 24 May 2007 c1538W

<sup>25</sup> HC Deb 4 July 2007 c1063

additional pitches through new sites, extensions to existing sites, or bring pitches back into use.

By increasing the supply of authorised sites, the Government aims to improve the current levels of unauthorised encampment and development, which are a result of nearly a quarter of Gypsies and Travellers living in caravans having no authorised place to stay.

This renewed commitment to tackle the problem of unauthorised sites follows publication of a Government-commissioned report from the Task Group on Site Provision and Enforcement. The group's report concludes that Government policy on site provision and enforcement is sound, and calls for a consensus around the need for authorised Gypsy and Traveller sites.

Other measures being taken forward following the report's recommendations include:

- \* New Government guidance for councils on tackling anti-social behaviour - the guidance will support local authorities and the police in dealing with anti-social behaviour where Gypsies and Travellers are either the victims or perpetrators;
- \* A Gypsy and Traveller 'summit' - Ministers will meet with Gypsy and Traveller representatives to discuss their concerns about the different definitions used for Gypsies and Travellers for housing and planning purposes;
- \* Improved monitoring - the Government will report annually to Parliament on progress on Gypsy and Traveller issues...<sup>26</sup>

## **J. Will provision of sites solve the problem?**

An adjournment debate in January 2008 raised doubts about reliance on site provision:

**Mr. Brian H. Donohoe (Central Ayrshire) (Lab):** I have been campaigning on the issue of the travelling community since I was elected in 1992, with limited success. I have tried to deal with and resolve the problems that affect the travelling people in my constituency and, I believe, across the whole country. When I came to this House I had a romantic view of travelling people; I believed that the Gypsy population was made up of good God-fearing people who listened to and understood the law, and who carried out their duties within it. Over the time that I have been a Member of Parliament my opinion has been substantially eroded. Those people have become a threat to the community, and the powers that be seem powerless to intervene effectively. As individual MPs, we face a brick wall while the problem escalates by the year.

**Julie Morgan (Cardiff, North) (Lab):** I am listening closely to my hon. Friend. Does he agree that most of the difficulties between Gypsies, Travellers and the settled community in the UK are caused by the lack of official sites and stopping places for Gypsies and Travellers? Does he agree that the relationships would be much better if there were sufficient places for them to stop?

---

<sup>26</sup> DCLG Press Release, *New drive to improve Gypsy and traveller site provision*, 11 December 2007

**Mr. Donohoe:** I know that the hon. Lady spends a tremendous amount of time advocating that cause, and I applaud her for that. The difficulty is that in my constituency we have two of those camps, yet I still find myself faced with illegal tippers and the other problems that come along with the Travellers.

**Several hon. Members** *rose* —

**Mr. Donohoe:** I shall give way two or three times, but time is obviously against me.

**Jim Sheridan (Paisley and Renfrewshire, North) (Lab):** In my experience, the problem is that when we provide camps for travelling people or Gypsies, they then trash the camps. If there is a camp they have to live in it, but they want to travel throughout the country. The legislation means that if a camp is provided, they have to go to it. In my experience, they trash the camp so that they can go wherever they want in the community.<sup>27</sup>

**Brian Donohoe** gave examples of the problem:

My hon. Friend the Member for Paisley and Renfrewshire, North (Jim Sheridan) has mentioned litter already, but another problem is the dumping of waste. For example, the local authority in my area gave Travellers Portaloos, but they were dumped in the skips that the authority had supplied for their rubbish and set alight. That is the sort of person that we are dealing with: I know that there are some good ones among them, but that story is typical of our experiences with them. Other problems include people on the beach park at Irvine being intimidated while out running or walking their dogs, and being told that they have no right to be there. Constituents of mine have been shot at by the travelling people, and the House would find it hard to believe the sort of debris—from building work being undertaken on their behalf—that has been left when Travellers leave a camp. Also, Travellers are guilty of selling items without having a trading licence, and we have sometimes found that their caravans have been illegally imported, with no duty paid.<sup>28</sup>

The Minister, Iain Wright reiterated the Government policy on site provision and included a passage on enforcement:

Our task group on site provision and enforcement—chaired by Sir Brian Briscoe, a former chief executive of the Local Government Association—has reviewed the operation of enforcement powers and taken evidence from local authorities and others involved in using the powers. My hon. Friend the Member for Central Ayrshire asked whether we need more legislation. In its final report, “The Road Ahead” published in December, the group concluded that the scope and nature of existing enforcement powers are sufficient, but that considerable improvements could be made to the way in which they are used. We are committed to ensuring that those improvements are made.<sup>29</sup>

---

<sup>27</sup> HC Deb 30 January 2008 c439

<sup>28</sup> HC Deb 30 January 2008 c440

<sup>29</sup> HC Deb 30 January 2008 c445