



## HOUSE OF COMMONS

Rt Hon Priti Patel

Secretary of State for the Home Department

By email

29 October 2019

Dear Home Secretary

We write to you as Co-chairs of the Gypsy Traveller and Roma All Party Parliamentary Group about the Government's review of 'powers for dealing with unauthorised development and encampments', specifically the proposal to assess whether to criminalise trespass and the strengthening of police powers under the Criminal Justice and Public Order Act. As we understand it, Home Office officials have conducted a review of this and Ministers will be addressing the issue in the near future, with a further public consultation to follow. We would welcome the opportunity to meet with you to discuss this.

A huge area of concern for the APPG and Gypsy and Traveller communities is the lack of suitable stopping sites. Therefore, the Government review of enforcement powers is of particular interest to us. We are extremely concerned that the Government's approach to this leans towards the introduction of more punitive powers rather than addressing one of the key contributing factors to the number of unauthorised encampments – the lack of permanent and transit sites, and the impact that evictions have on Gypsies and Travellers.

As you know, a number and variety of powers are already available to landowners, and it would be disproportionate to consider increasing these powers without addressing the issue faced by travelling families who do not have anywhere they are permitted to stop. We believe this approach is putting the cart before the horse and is completely impractical without available sites.

It is crucial that during this process of assessing enforcement powers that the Government fully considers the fact that Gypsy and Traveller communities are already amongst the most marginalised and vulnerable in UK society, facing multiple disadvantages across different areas of life. This has been identified by the Equalities and Human Rights Commission and by the Women and Equalities Committee in their

recent Inquiry on this matter. Amongst the issues faced are poorer health, lower educational outcomes, lack of access to culturally appropriate accommodation, and frequent exposure to racism and discrimination. Some of the disadvantages have been highlighted in the Race Disparity Audit but unfortunately due to the lack of consistent and robust ethnic monitoring data across government departments, Gypsy Roma and Traveller data was less visible.

There are a number of workable solutions to address the number of unauthorised encampments without recourse to further, unnecessarily punitive legislation or extension of police powers. We know this to be a view shared with police bodies, indeed the National Police Chief Council and the Association of Police and Crime Commissioners [joint response to the former consultation stated](#);

*'The obvious answer to unauthorised development and encampments is the provision of pitches, both public and private, including not only permanent pitches but also transit pitches and emergency stopping places. Additionally, there is the concept of 'negotiated stopping'...' In summary, we believe that criminalising unauthorised encampments is not acceptable. Complete criminalisation of trespass would likely lead to legal action in terms of incompatibility with regard to the Human Rights Act 1998 and the Public Sector Equality Duty under the Equality Act 2010, most likely on the grounds of how could such an increase in powers be proportionate and reasonable when there are insufficient pitches and stopping places?'*

The Equality and Human Rights Committee also shares this view, stating in [their submission to the last consultation that](#);

*'The Commission strongly opposes the criminalisation of unauthorised encampments:*

- i. In the context of a serious national shortage of authorised permanent and transit sites, many Gypsies and Travellers seeking to pursue their centuries-old way of life have no option but to resort to unauthorised encampments.*
- ii. Moreover, following the amendments to Planning Policy for Traveller Sites ("PPTS") in August 2015 which excluded from the PPTS Gypsies and Travellers who had stopped travelling permanently, even if for reasons of old age or ill health, Gypsies and Travellers are obliged to travel in order to retain their status as Gypsies and Travellers for planning purposes. Given the lack of transit sites, many are forced onto unauthorised encampments.*
- iii. To criminalise unauthorised encampments per se, without the requirement for any harm to be caused, and without sufficient sites being available, would therefore be to criminalise a way of life.*
- iv. There can be no justification for this when the vast majority of these unauthorised encampments cause no problems.*
- v. Criminalisation would therefore almost certainly fall foul of the prohibition on indirect discrimination contained at section 19 EA 2010. 12 vi. Moreover, it would clearly be contrary to the Government's positive obligation to facilitate the Gypsy way of life pursuant to Article 8 of the European Convention on Human Rights.'*

The ODPM / HO produced *Guide to effective use of enforcement powers. Part 1: Unauthorised encampment* (2006) also refers to the crucial relationship between the provision of appropriate sites and unauthorised encampments as follows:

*'The most effective method of combating unauthorised camping is to provide sites in accessible locations for those Gypsies and Travellers who pass through the area. This may not be limited to official residential and transit sites; it might also include particular locations which have been identified in the district where Gypsies and Travellers can stop for limited and agreed short periods of time, without having any adverse impact on the settled community.'*

We fully support this position, but we must point out that in reality very little is being done to provide more socially rented pitches sites. We appreciate this relates to planning policy issues, so not within your responsibilities, but it is important that you are aware of the broader issues regarding the lack of site provision during your assessment of the review of enforcement powers. We would be happy to outline some of the planning policy related issues when we have the opportunity to meet.

It must be said, that the cycle of constant evictions has serious health and social implications for Gypsy and Traveller families, many of whom cannot access basic water and sanitation, and experience difficulties in accessing services such as education and healthcare. The lack of available pitches is a major contributing factor to families being forced to camp in public spaces, where they are often the victim of race hate crime, and the existence of roadside camps can lead to damaging relationships with the settled community.

We understand that some of the concerns from residents and parliamentarians relating to unauthorised encampments are due to incidents of anti-social behaviour, which has included fly-tipping, but this needs to be treated as a criminal matter in those individual cases.

We would also like to draw your attention to the fact there have been a number of recommendations in international committee reports on the need for better site provision, negotiated stopping and needed revisions to planning policy affecting Travellers, including the European Commission against Racism and Intolerance, UN Committee on the Convention on the Elimination of All Forms of Racial Discrimination, the UN Committee on Economic, Social and Cultural Rights, and the Advisory Framework on the Convention for the Protection of National Minorities, and we urge you to take note of these reports and the need for positive solutions. It is also crucial to remember that UK government has a positive obligation to 'facilitate the Gypsy way of life'.

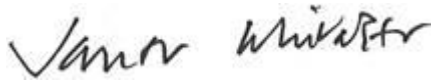
If the Government are committed to addressing race disparity, more must be done to ensure suitable authorised sites are available and not increase enforcement powers. Earlier this year we were encouraged by the Government's announcement to develop a cross-departmental strategy to address the inequalities experienced by Gypsy, Roma and Traveller communities but we fear the Home Office proposals are completely at odds with this.

On a final note, we wish to raise the issue of the increasing use of wide injunctions where effectively blanket bans are being used to stop Travellers from stopping across a borough or city, applying to all under 'Persons Unknown'. We have been notified that numerous

local authorities are using these. We feel that use of these powers are disproportionate and are concerned that this is having an unjustified impact on Gypsies and Travellers.

We would very much welcome the opportunity to meet you to discuss in more detail some of the issues raised in this letter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kate Green', with a stylized, wavy flourish at the end.A handwritten signature in black ink, appearing to read 'Janet Whitaker', with a stylized, wavy flourish at the end.

Baroness Janet Whitaker and Kate Green MP  
Co-Chairs, All-Party Parliamentary Group for Gypsies Travellers and Roma