

Friends, Families and Travellers submission to the Joint Committee on Human Rights - The Government's response to COVID-19: human rights implications

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Introduction

Due to existing inequalities in terms of health, education, accommodation and employment, Gypsy, Roma and Traveller communities are not only at greater risk of contracting Covid-19 and suffering more acute symptoms, many have been plunged further into a state of deprivation as the Government have failed to take action. This submission highlights how the Government response to Covid-19 has failed to ensure the protection of the rights of Gypsies, Roma and Travellers under Article 2 Right to education, Article 8 Respect for private and family life in conjunction with Article 14 Protection from discrimination of the Human Rights Act (HRA) 1998. The submission also draws on the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1976, Article 12 The right to highest standards of attainable health.

Article 8 - Respect for private and family life in conjunction with Article 14 Protection from discrimination of the HRA 1998

The Government response to Covid-19 has lacked robust measures to ensure the protection of Gypsies and Travellers on encampments, leading to potential violations of Article 8¹ and 14² of the HRA, 1998. Indeed, Willers and Johnson³ state;

“The caravan is the home for the purposes of Article 8 and that eviction will interfere with its use and also with the right of the Gypsy or Traveller to respect for ‘private or family life’ and his or her traditional way of life.”

In response to Covid-19, the Government announced a “complete ban on evictions”, however, this did not include provisions for Gypsies and Travellers on encampments. From a human rights perspective, the suspension of evictions would enable families to have a safe place to stop in their caravans and access basic amenities such as water and sanitation, which are essential from a public health perspective.

On 27th March 2020, the Court and Tribunals Judiciary updated their rules on some eviction methods, namely Civil Procedure Rules Part 55, stating;

¹ Everyone has the right to respect for his private and family life, his home and his correspondence.

² Prohibition of discrimination - The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

³ Willers & Johnson (2020) Gypsy and Traveller Law. <https://www.lag.org.uk/>

*'All proceedings for housing possession brought under CPR Part 55 and all proceedings seeking to enforce an order for possession by a warrant or writ of possession are stayed for a period of 90 days from today, 27th March 2020.'*⁴

This was positive news as CPR Part 55 is used for Gypsy and Traveller sites and unauthorised encampments. However, on 20th April 2020, the Master of the Rolls and the Lord Chancellor signed an Amending Practice Direction which withdrew and updated the rules so households living on unauthorised encampments were no longer protected.⁵ The decision to withdraw these legal protections has had significant impact on the welfare of Gypsy and Traveller families living on road-side encamps.

Following this amendment, the Minister for Communities wrote to local authority Chief Executives outlining ways in which councils could mitigate impacts of coronavirus on Gypsy and Traveller communities⁶. We were disappointed to see that this contained no reference to halting evictions. Due to the absence of a clear directive from national Government on these issues, there has been significant disparities in the use of eviction powers and in support provided by local authorities.

In contradiction of the Government messaging on “no unnecessary travel”, a “complete ban on evictions” and staying at home, evidence gathered by The National Federation of Gypsy Liaison Groups illustrates that, (report due August 2020) between 23rd March (the start of lockdown) and 10th May (when the Government’s message switched from “Stay Home” to “Stay Alert”) at least 9 evictions of groups of families on unauthorised encampments took place. Between 10th May and 24th June there were a further 39 evictions – an increase of 333%.

Each time a family is evicted, they need to start from scratch in getting access to water, sanitation and refuse collection. Being forced to travel and engage with enforcement agents puts the entire household at higher risk of catching coronavirus. The lack of guidance advising that all evictions must be suspended at this time has exacerbated the threat posed to public health and fails to protect communities facing disproportionate risk of contracting and facing severe outcomes from Covid-19.

The World Health Organisation declared coronavirus a pandemic on 11th March 2020 and lockdown began in the UK on 23rd March 2020, however, the Minister for Communities did not write to local authorities outlining that they could support people to access water and sanitation until the 11th April 2020⁷.

⁴ <https://www.judiciary.uk/announcements/117th-practice-direction-update-to-the-civil-procedure-rules-coronavirus-pandemic-related/>

⁵ https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.judiciary.uk%2fannouncements%2f120th-practice-direction-update-to-the-civil-procedure-rules-coronavirus-pandemic-related%2f&c=E,1,240fZhy2C6ty5Tqmvzo83Ta_GrQHkVsKjJt_SKO02yxwzZhymKO-DwApcmDGvnVTfA1hWMLzy4slbOSVI-AMWEejBJcOm3Sb3aX-yol9&typo=1

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882564/COVID-19_-_mitigating_impacts_on_gypsy___traveller_communities.pdf

⁷ <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

⁸ <https://www.gypsy-traveller.org/wp-content/uploads/2020/04/COVID-19-MITIGATING-IMPACTS-ON-GYPSY-TRAVELLER-COMMUNITIES.pdf>

Whilst the letter recognises some of the challenges that Gypsies and Travellers face when living on encampments, in many cases local authorities have not gone far enough to ensure amenities are provided. In comparison, the direction to local authorities on provision of a safe space for rough sleepers to shield and self-isolate was much stronger.

Whilst failure to protect families living on the roadside from evictions has had a significant and far-reaching impact nationally, we have been pleased to see that some local authorities have taken decisive action to halt the use of eviction powers in the interests of public health and have put in place Negotiated Stopping⁹.

Article 2 - Right to Education in conjunction with Article 14 Protection from discrimination of the HRA, 1998¹⁰

The Government have failed to ensure the protection of Gypsy, Roma and Traveller people's right to education in their response to Covid-19. Pre-existing inequalities have meant that many Gypsies, Roma and Travellers have not been able to access education in the same way that the wider population have during Covid-19 and may suffer further disadvantage as a result.

Gypsy, Roma and Traveller pupils face disproportionate barriers to the education system. Pre-existing issues in how schools engage with Gypsy, Roma and Traveller communities coupled with long-standing educational inequalities within the communities means that there is a real risk that Gypsy, Roma and Traveller pupils will be left behind during the pandemic due to the partial closure of schools and educational settings and lack of support to continue learning remotely.

The Race Disparity Audit, tells us that pupils from the Gypsy/Roma and Irish Traveller ethnic groups had the lowest average score in GCSEs of any ethnic group in 2016/17¹¹. Furthermore, only 34% of Gypsy/Roma and 37% of Irish Traveller children met the expected standards in math in year 2, compared to 76% of pupils in the general population¹².

Supporting children with their education during lockdown presents challenges in the vast majority of households with school aged children and young people at this time. However, we are concerned that a number of issues have placed Gypsy, Roma and Traveller pupils at a significant risk of falling behind during this period. These include:

⁹ <https://www.negotiatedstopping.co.uk/what-is-negotiated-stopping>

¹⁰ Article 2 - No person shall be denied a right to an education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.

Article 14 - The enjoyment of the rights and freedoms set forth in the European Convention on Human Rights and the Human Rights Act shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

¹¹ Race Disparity Audit (2018) 'Ethnicity facts and figures'. Last accessed 12 Mar 2019. Available at: <https://www.ethnicity-facts-figures.service.gov.uk/>

¹² <https://www.ethnicity-facts-figures.service.gov.uk/education-skills-and-training/5-to-7-years-old/mathematics-attainments-for-children-aged-5-to-7-key-stage-1/latest>

- Qualification level of parents or carers – 60% of people over the age of 16 years old in Gypsy and Traveller communities have no formal qualifications¹³. This means that many parents may be in a position where they are being asked to support their children with a level of education which they themselves have not been taught to.
- Levels of literacy of parents or carers – At Friends Families and Travellers, we support over 1300 Gypsies and Travellers each year with issues relating to accommodation, education, welfare and much more. We have calculated that around 40% of our service users have low or no literacy. There is a concern that this will act as a severe limiting factor for parents aiming to support children with their education during the pandemic.
- Levels of digital inclusion – In 2018, we conducted research with 50 members of Gypsy and Traveller communities which found that one in five Gypsy and Traveller participants had never used the internet; over half of Gypsy and Traveller participants said that they did not feel confident using digital technology by themselves; and only 38% of Gypsies and Travellers (33% if housed) had a household internet connection, compared to 86% of the general population¹⁴. We found that 32% of those surveyed did not own any devices which could connect to the internet, only one in 50 owned a desktop computer, only one in five people surveyed owned a laptop. This has clear and immediate ramifications for delivering teaching online.
- Overcrowded learning environments – By nature, nomadic homes are confined spaces and so families spend a lot of time outdoors. Current Government restrictions on staying at home make this more difficult, especially when we take into account the large family size typical of Gypsy and Traveller communities. This can create an environment where it is difficult to home-school children due to the increased risk of distraction and lack of space.

We have had reports of schools only providing work for children online and are refusing to print packs off for children. Given the above, it is likely that remote education will exacerbate existing inequalities in the education system. At the local level, we have seen that recognition of these challenges and the level of support provided to families has varied substantially from place to place and from school to school.

Ultimately, we are concerned when Gypsy, Roma and Traveller children return to school, they will have missed out on learning that other children have been able to access online, placing them at a significant disadvantage. Given the pre-existing level of inequalities within the education system for Gypsy, Roma and Traveller children, it is imperative that support is offered to children to catch up with pupils in their cohort.

Article 12 - Right to the highest standard of attainable health of the ICESCR, 1976

¹³<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/datasets/2011censusanalysiswhatdoesthe2011censusstellusaboutthecharacteristicsofgypsyoririshtravellersinenglandandwales>

¹⁴ <https://www.gypsy-traveller.org/wp-content/uploads/2018/09/Digital-Inclusion-in-Gypsy-and-Traveller-communities-FINAL-1.pdf>

The UK ratified the International Covenant on Economic, Social and Cultural Rights in 1976 which states in Article 12 *“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”* During Covid-19 we have seen an increase in Gypsies, Roma and Travellers being denied access to primary care and the Government have failed to take steps to mitigate this in their wider response to the health crisis.

The first principle of the [NHS constitution](#) sets out that the “NHS provides a comprehensive service, available to all”. In particular, the principle highlights that the NHS “has a wider social duty to promote equality through the services it provides and to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population.”

Despite this, difficulties in accessing health care due to wrongful refusal to register within primary care is a longstanding issue faced by Gypsy and Traveller communities when accessing primary healthcare services.¹⁵ Research carried out by Friends Families and Travellers in 2019 found that 24 out of 50 general practices mystery shopped in England refused to register a member of the Traveller community because they had no fixed address and/or no proof of identification¹⁶. The 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 UN Committee on the Rights of the Child have all previously called on the UK Government to address this issue.¹⁷

During lockdown, we have seen an increase in the number of people being refused for registration for primary care services or who have found registration processes inaccessible. We are concerned that we have and will continue to see a widening of the gap in access to health care services as a result of increased pressure on and increased digitisation of health care services. Research conducted by Friends, Families and Travellers in 2018 found high levels of digital exclusion in Gypsy and Traveller communities, with over half of participants reporting that that they did not feel confident using digital technology by themselves.¹⁸

Given the extent of this issue, particularly given the importance of healthcare access during this period, we have been eager to see action taken to address this and to ensure that this issue is not exacerbated by the current additional pressures primary healthcare services are facing.

Recommendations

1. The work of the Government Equality Hub to address disparities in risk and impact of Covid-19 must include Gypsy, Roma and Traveller communities.

¹⁵ Ibid

¹⁶ <https://www.gypsy-traveller.org/wp-content/uploads/2019/03/No-room-at-the-inn-findings-from-mystery-shopping-GP-practices.pdf>

¹⁷ Ibid.

¹⁸ <https://www.gypsy-traveller.org/wp-content/uploads/2018/09/Digital-Inclusion-in-Gypsy-and-Traveller-communities-FINAL-1.pdf>

2. The Government should appoint a Minister to lead the Government's response to Covid-19 in Gypsy, Roma and Traveller communities and ensure the needs of the communities are sufficiently prioritised.
3. The Government and local authorities should do more to ensure compliance with the Public Sector Equality Duty, so that the impact of decision making and planning on marginalised communities, including Gypsies, Roma and Travellers, is fully considered.
4. The Ministry of Housing, Communities and Local Government should issue clear and detailed guidance on how to support families who have no access to water, sanitation and refuse collection as we transition out of lockdown.
5. Each local authority should establish a named individual responsible for coordinating support for Gypsies, Roma and Travellers at this time.
6. Public Health England and the Ministry of Housing, Communities and Local Government should release guidance on how people living roadside, on Traveller sites or on boats can self-isolate, as a matter of urgency.
7. The Ministry of Housing, Communities and Local Government should send clear guidance to all local authorities halting all evictions, which is even more crucial where a household has possible or confirmed cases of coronavirus.
8. Risk assessment tools being developed by NHS England for clinical settings should include accommodation type and over-crowding in factors considered.
9. The Ministry of Housing, Communities and Local Government with the Department of Health and Social Care should develop clear guidance for local authorities on how to support nomadic communities to access testing and enable enhanced access to testing, following models developed in the Republic of Ireland.
10. The Department of Health and Social Care should publish clear information on how to access testing for members of nomadic communities.
11. NHS England should develop clear guidance for all health and care services on how to ensure equitable health care for populations experiencing digital exclusion.
12. The Care Quality Commission should maintain a focus during upcoming inspections on equity of healthcare for populations experiencing digital exclusion.
13. All children whose parents have no formal qualifications and/or low levels of literacy and who are unable to return to school as planned should have optional access to a home tutor for the duration of their remote education.
14. The Department for Education should fund schools to deliver catch up education for those children and young people disadvantaged by the lockdown.

About us



Friends, Families and Travellers is a leading national charity that works on behalf of all Gypsies, Roma and Travellers regardless of ethnicity, culture or background.

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