

SUBMISSION TO HOME OFFICE CONSULTATION: “STRENGTHENING POLICE POWERS TO TACKLE UNAUTHORISED ENCAMPMENTS”

BOARD OF DEPUTIES OF BRITISH JEWS

17th February 2020

Before addressing the specific issues raised by the consultation, it may be helpful to set our response in some context. The Board of Deputies of British Jews is the voice of the British Jewish community, the first port of call for government, the media and others seeking to understand Jewish community interests and concerns. The Board of Deputies works in a range of areas on a host of issues. We work to combat antisemitism from wherever it emanates, express our community’s bond with the State of Israel, defend Jewish education, educate wider society about Judaism and build bridges through interfaith relations.

Solidarity with other communities is also an important part of our work. The Board of Deputies continues to work with Jewish human rights organisation René Cassin (who we thank for their helpful advice on this response) and Gypsy, Roma and Traveller organisations such as Friends, Families and Travellers to raise awareness of challenges faced by the Gypsy, Roma and Traveller communities in Britain.

Because of our history – like that of the Gypsy, Roma and Traveller communities – the Jewish community is acutely aware of where racial prejudice can lead us. In the 1930s, an article in a Nazi medical journal said the following:

"Rats, insects and fleas are part of nature, just like Gypsies and Jews ... We must gradually eliminate these pests through biological means." ¹

This dehumanising language is one stage in the process of genocide. A process which – as it did in Nazi Germany – can end up with mass murder. That’s why the Board of Deputies is very clear that we all need to be extremely vigilant in protecting all minority communities – particularly Gypsy, Roma and Traveller communities - from hostility, in whatever form.

In other countries in Europe, we are already seeing recent moves by governments that go beyond rhetoric. In 2018, when Italy’s interior minister recommended creating a

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<https://books.google.co.uk/books?id=b3hUvouXdvYC&pg=PT411&jpg=PT411&dq=%22Rats,+insects+and+fleas+are+part+of+nature%22&source=bl&ots=QRkqyoWAhK&sig=ACfU3U01IYVvmYEAAdWZDsyLYED71Cc9DLA&hl=en&sa=X&ved=2ahUKEwiA7PXlr7rnAhUWE8AKHT6EAj8Q6AEwA3oECAUQAQ#v=onepage&q=%22Rats%2C%20insects%20and%20fleas%20are%20part%20of%20nature%22&f=false>

“registry” of Roma, this racist proposal was condemned by the Jewish communities of Britain and Italy.² Here, the Board of Deputies warned that the proposal resembled *“the antisemitic legislation adopted by Italy’s fascist government during the Holocaust”*. The Italian Jewish community condemned the Government for *“reawakening memories of the racist measures taken just 80 years ago and, sadly, increasingly forgotten.”*

With all this in mind, any proposals for legislation that strengthens police powers to tackle unauthorised encampments must be very careful in terms of their potential impact on Gypsy, Roma and Traveller communities, which are already some of the most marginalised and persecuted in the UK.

The main proposals in this consultation relate to the strengthening of police powers to tackle unauthorised encampments in England and Wales.

Government clearly has an important role to play in addressing the concerns of Gypsy, Roma and Traveller communities, as well as settled communities, with respect to planning policy for Traveller sites.

The Government’s consultation³ refers to anti-social behaviour, which is of course a concern for many communities, the Jewish community included. We recommend that the Government heed the recommendations of the police, who of course have extensive experience of working on the frontline to address anti-social behaviour and its damaging impact. With that in mind, a survey by Friends, Families and Travellers⁴ - a leading national Traveller led charity – of Police Forces, Police and Crime Commissioners and police bodies, found that 75% of police responses felt current police powers were sufficient and/or proportionate, and that 84% of police responses did not support the criminalisation of unauthorised encampments.

An example of one such response – from the National Police Chiefs Council and the Association of Police and Crime Commissioners – was:

“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?”

A further 65% of police responses said that lack of site provision was the real problem, as noted by the Warwickshire Police and Crime Commissioner, who responded:

“The only effective way to tackle the growing problem of unauthorised encampments is to ensure there is adequate transit and permanent provisions

² <https://twitter.com/BoardofDeputies/status/1009790887080202241>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/844954/Unauthorised_Encampments_-_consultation_paper.pdf

⁴ <https://www.gypsy-traveller.org/wp-content/uploads/2019/11/FINAL-Police-oppose-criminalising-unauthorised-encampments-and-call-for-more-sites-to-be-published-9am-13.11.19.pdf>

nationally. This must be a priority and will require revisiting current planning legislation.”

Therefore, rather than criminalising unauthorised encampments, the Government should ensure that planning policies are meeting the accommodation needs of Gypsies and Travellers so that they have a place they are allowed to stop. We ask that consideration is given to the various problems in the planning process, which have been identified by Friends, Families and Travellers⁵:

- *“Stage 1 – Research shows that not all local authorities carry out an assessment of need for Gypsy and Traveller accommodation and there is often a substantial undercount with the flawed planning definition for ‘Traveller’ meaning not everyone who should be considered within an accommodation assessment for Traveller pitches is (FFT et al, 2016).*
- *Stage 2 – Many local plans are not compliant with government planning policy (MHCLG, 2015) because they do not identify a five year supply of specific deliverable sites against their locally set targets. Our research found that only 10 out of 66 local authorities in South East England were compliant with this planning duty (FFT et al, 2016).*
- *Stage 3 – Despite local authorities’ failures to meet planning duties around Traveller sites, inspectors frequently neglect to properly address this during examination.*
- *Stage 4 – Applications for Traveller sites are usually met with widespread hostility by neighbouring communities, politicians and the media. Applicants are often subject to torrents of abuse and racism. The majority of applications are turned down at the first stage.*
- *Stage 5 – Since the launch of the Affordable Homes Programme in 2016, not one single permanent affordable Traveller pitch has been approved in England (Hansard, 2019).”*

We further commend Negotiated Stopping⁶ as an approach, which has been developed by Leeds Gypsy & Traveller Exchange (known more commonly as Leeds GATE, a grassroots organisation led by Gypsy and Traveller people in partnership with others in and across West Yorkshire) and tested in conjunction with Leeds City Council. Negotiated Stopping involves local authority officers making an agreement with Gypsies and Travellers on unauthorised encampments. The terms of the agreement can vary depending on the situation but will usually include matters such as correct waste disposal and other things which can be described as ‘good neighbourliness’.

Lastly, we would also like to draw attention to a recent Court of Appeal judgement⁷, which may have implications for the measures proposed in this consultation. In this case, the London Borough of Bromley appealed after they were denied an injunction

⁵ <https://www.gypsy-traveller.org/wp-content/uploads/2019/11/FINAL-Police-oppose-criminalising-unauthorised-encampments-and-call-for-more-sites-to-be-published-9am-13.11.19.pdf>

⁶ <https://www.negotiatedstopping.co.uk/what-is-negotiated-stopping>

⁷ <https://www.gardencourtchambers.co.uk/resources/download/76/ewca-civ-12.pdf>

which would have prohibited Gypsies and Travellers from establishing unauthorised encampments.

In their judgment of 21st January 2020, the Court of Appeal dismissed Bromley's appeal, stating that where local authorities lack site provision, any attempt to criminalise unauthorised encampments would leave them in breach of the Equality Act 2010 and the European Convention on Human Rights. Were the government to criminalise unauthorised encampments nationally, it may be in breach of these too.

In conclusion, the government is right to seek a solution to the problem of unauthorised encampments, which can exacerbate tensions with the settled community and may place Gypsy and Traveller families at higher risk of experiencing hate crime. However, it is the lack of authorised sites which is the root of the problem, and we urge the Government to heed the calls of Gypsy, Roma and Traveller communities, as well as police, who are urging a switch from an enforcement approach, to a provision approach.

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