



House of Commons

House of Lords

Joint Committee on Human
Rights

**Legislative Scrutiny:
Police, Crime, Sentencing
and Courts Bill (Part
4): The criminalisation
of unauthorised
encampments**

Fourth Report of Session 2021–22



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Joint Committee on Human Rights

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Publication

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Summary

Part 4 of the Police, Crime, Sentencing and Courts Bill proposes to criminalise Gypsy, Roma and Traveller people who reside, or intend to reside, on an unauthorised encampment, even when they do not have anywhere else to go. The Bill would also create new powers to seize caravans, including family homes, and gives landowners a new role in criminalising people who trespass on their land.

Part 4 of the Bill gives rise to several human rights concerns. We recognise that the human rights of landowners can be impacted by unauthorised encampments. The Government's proposals are likely to violate Article 8 of the European Convention on Human Rights (ECHR), which requires that the State should not interfere unnecessarily with a person's family life, private life, way of life, or their home. Most Gypsy, Roma and Traveller people do not want to live on unauthorised encampments, but a chronic lack of authorised sites means that many feel they have no choice. To criminalise unauthorised encampments without providing sufficient authorised sites would be contrary to the Government's obligation under Article 8 ECHR to facilitate the gypsy way of life. We recognise that landowners also have legitimate concerns around access to their own land. However, the Government should not use the criminal law to address what is essentially a planning issue.

The proposals self-evidently discriminate against Gypsy, Roma and Traveller people, putting at risk their right to practise their culture without being unfairly criminalised in the absence of adequate sites. We therefore have concerns that there is a significant risk that the Bill could be found to be in contravention of the requirement that all human rights and freedoms be secured without discrimination under Article 14 ECHR, as read with Article 8 and other relevant human rights.

There are far too many risks inherent in a system that effectively criminalises a civil law matter. This, combined with a lack of clarity in the language of the Bill, could give rise to violations of the principle of no punishment without law (Article 7 ECHR), the right to private and family life (Article 8 ECHR) and freedom from discrimination in the enjoyment of human rights (Article 14 ECHR).

This new offence relates to what a person may "intend" to do, or damage they are "likely" to cause, "if" they reside on land. Such language uses multiple terms that are open to wide and often subjective interpretation, and as a consequence may allow for prejudice and discrimination to permeate this new offence. It is clear that any infringement of property rights can cause harm to the landowner. However, we must not criminalise people for doing no harm, particularly when those being targeted by a new offence are a historically persecuted minority group who continue to suffer discrimination and prejudice.

We therefore have significant concerns with the justification behind this new offence and consider that there are other ways of tackling unauthorised encampments—for example, a statutory duty on local authorities to provide adequate authorised encampments—which would achieve the same aim without interfering with human rights in such a significant manner. The provision of more authorised sites would also benefit landowners, who are quite rightly concerned about the present situation.

However, we recognise that the Government is likely to pursue these Clauses. We have therefore proposed amendments to the new offence to ensure that any interference with human rights arising from Part 4 of the Bill is more proportionate.

1 Introduction

1. The Gypsy, Roma and Traveller community have been woven into the fabric of this country for several hundred years. Theirs is a culture that embraces a traditional, nomadic way of life and which celebrates the importance of family and community in a way that is often distinct from the wider, settled population. But it is also a culture that has faced violent persecution and discrimination throughout its history. This discrimination continues today, with many Gypsy, Roma and Traveller people reporting that they continue to face racism and harassment in Britain.

2. The Government and public authorities have a positive obligation to facilitate—that is, to actively secure, rather than passively permit—the Gypsy, Roma and Traveller way of life, under Article 8 of the European Convention on Human Rights (ECHR). The European Court of Human Rights (ECtHR) has made clear that this positive obligation includes a responsibility to establish sites on which the community can live. But many Gypsies, Roma and Travellers argue that the Government and local authorities have not provided a sufficient number of authorised sites, leaving them with no choice but to establish ‘unauthorised’ sites on public or privately-owned land. Unauthorised sites are, they say, the visible symptom of a more fundamental problem.

3. Some Gypsy, Roma and Traveller campaigners believe that proposals to make it more difficult to establish unauthorised encampments are motivated by racial hatred. The unfairness is particularly stark when bearing in mind the lack of adequate sites and the existing obstacles to members of the Gypsy, Roma and Traveller community receiving planning permission for sites on their own land. However, almost every local newspaper has its version of the story of the traveller group which has encamped on a much-loved public park, engaged in anti-social behaviour, damaged property, or left sites covered in litter. Although these stories do not reflect the way of life of the vast majority of the Gypsy, Roma and Traveller, this perception has led for some to call for greater action on unauthorised encampments.

4. In its 2019 General Election manifesto, the Conservative Party made a commitment to increase police powers to address unauthorised encampments:

We will tackle unauthorised traveller camps. We will give the police new powers to arrest and seize the property and vehicles of trespassers who set up unauthorised encampments, in order to protect our communities. We will make intentional trespass a criminal offence, and we will also give councils greater powers within the planning system.

The commitment was included in the 2019 and 2021 Queen’s Speeches, the most recent of which described unauthorised encampments as causing “nuisance and misery for local people”. Following a consultation—*Strengthening police powers to tackle unauthorised encampments*—undertaken between November 2019 and March 2020, which received its formal response in March 2021, the Government announced that measures to address unauthorised encampments would be brought in through the Police, Crime, Sentencing and Courts Bill.

The Police, Crime, Sentencing and Courts Bill 2021–22

5. The Police, Crime, Sentencing and Courts Bill was introduced to the House of Commons on 9 March 2021. The Bill will complete its remaining stages in the House of Commons on Monday 5 July. It is a wide-ranging Bill, which will make significant changes across the criminal justice system, including to police powers, sentencing and release, youth justice, and the right to protest. The Bill gives rise to several human rights considerations and, consequently, this is the third report from our Committee—following *Children of mothers in prison and the right to family life* (May 2021) and *Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 (Public Order)* (June 2021)—on the proposed legislation. This Report focuses on the new criminal offence of trespass and the accompanying seizure and forfeiture provisions which extend to England and Wales.

6. Part 4 of the Police, Crime, Sentencing and Courts Bill (Clauses 61 to 63) relates to unauthorised encampments and will primarily affect the Gypsy, Roma and Traveller community. Part 4 of the Bill includes provisions to:

- criminalise unauthorised encampments, creating an offence if someone resides, or intends to reside, on land without consent in or with a vehicle;
- give landowners a role in criminalising a person who is trespassing;
- strengthen police powers to deal with unauthorised encampments;
- prohibit a person from re-entering land without a reasonable excuse within 12 months; and
- give the police the right to seize property (with equivalent forfeiture powers for the courts), including people’s caravans—which, in some cases, is likely to be a family’s primary residence.

The majority of these provisions—including the new offence of criminal trespass and the associated powers of seizure and forfeiture—only extend to England and Wales. These proposals have provoked a strong reaction from community representatives and some legal professionals, with one leading barrister telling us that Part 4 of the Bill was “abhorrent, in my professional opinion”.

Human rights

Article 8: the right to respect for private and family life

7. Article 8 ECHR provides:

Article 8: Right to respect for private and family life

- 1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the

economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

8. Article 8 of the ECHR requires that the State should not interfere unnecessarily or disproportionately with a person’s family life, private life, or their home. Indeed, there is a positive obligation on the State to facilitate the way of life of certain groups, such as Gypsies, Roma and Travellers, by ensuring adequate provision of sites. The existing civil law of trespass has come into conflict with those rights. As Lord Justice Coulson noted:

“[...] there is an inescapable tension between the article 8 rights of the Gypsy and Traveller Community and the common law of trespass [...] The reality is, without [sufficient transit sites], unauthorised encampments will continue and attempts to prevent them may very well put the local authorities concerned in breach of the [ECHR]”.

In these circumstances, proposals to toughen the law of trespass and to create a new offence of criminal trespass are likely to further exacerbate the situation and to result in increased breaches of the human rights of members of the Gypsy, Roma and Traveller Community in the UK.

9. Article 8 rights are also relevant to proposals which could make people homeless, whether through removing people from a site when there is nowhere else in the area for them to go; or through proposals to seize or confiscate caravans—which may be the homes—of Gypsies, Roma and Travellers who are accused of residing or intending to reside in an unauthorised encampment.

Article 1 Protocol 1: the peaceful enjoyment of possessions

10. Article 1 of Protocol 1 ECHR provides:

Article 1: Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

11. Protocol 1 Article 1 (A1P1) of the ECHR provides that every person is entitled to the peaceful enjoyment of their possessions. No one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law. A1P1 rights are relevant to proposals to seize or confiscate the property of Gypsies, Roma and Travellers who are accused of residing or intending to reside in an unauthorised encampment. A1P1 rights are also relevant to the property rights of landowners where unauthorised encampments are established on their land.

Article 14: the prohibition of discrimination

12. Article 14 ECHR provides:

Article 14: 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.

13. Article 14 ECHR sets out that human rights and freedoms “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”. Consequently, any legislation which is found to unfairly discriminate in the enjoyment of human rights on the basis of race—in this case, Gypsies, Roma and Travellers—would be contrary to Article 14 ECHR, in conjunction with the relevant human right engaged, such as the right to property under A1P1 or the right to family life and home under Article 8 ECHR.

Our inquiry

14. Following the introduction of the Police, Crime, Sentencing and Courts Bill, we published a call for written evidence on the human rights implications of the Government’s proposals. We received several hundred submissions, many of which commented on the provisions in the Bill relating to unauthorised encampments. We also held a public evidence session on 19 May 2021, hearing from representatives of the Gypsy, Roma and Traveller community, the police, local authorities and a barrister. We are grateful to everyone who provided evidence to our inquiry.

2 Unauthorised encampments

The problem is the number of sites available [...] I do not think anybody is fighting for unauthorised encampments. We want places to stay that are safe, that are hygienic and that do not have a risk factor for our health.

— *Martin Gallagher, Irish Traveller and campaigner*

The issue of unauthorised encampments is a planning issue and is an accommodation issue, so we as the police are not seeking any additional legislation to deal with that.

— *Deputy Chief Constable Janette McCormick, National Police Chiefs' Council*

15. This report considers the human rights implications of Part 4 of the Police, Crime, Sentencing and Courts Bill (Clauses 61 to 63), which relates to unauthorised encampments. These provisions are likely to significantly affect the Gypsy, Roma and Traveller community, and so we begin this Report by describing their experiences of modern Britain. We then consider why unauthorised encampments exist and how common they are in England. Some powers already exist to allow public authorities in England to deal with unauthorised encampments, and we consider how adequate those have proven to be and where there have been calls for those powers to be strengthened. We then assess the specific proposals within Part 4 of the Bill, including to criminalise unauthorised encampments, to seize property, the role of landowners in the process, the risk of prejudice playing a role in how the constitutive elements of the new offence might be met, and the clarity of the language of key parts of the legislation.

The Gypsy, Roma and Traveller community

16. We refer in this report to the ‘Gypsy, Roma and Traveller community’ to describe a very wide range of people, including English Gypsies, Scottish Gypsies and Travellers, and Welsh Gypsies, Irish Travellers with specific Irish roots, and Roma, who are typically more recent migrants from Central and Eastern Europe. The 2011 Census indicated that there were approximately 58,000 people who identified as Gypsy or Irish Traveller in England and Wales, accounting for 0.1 per cent of the resident population.¹ Some argue that this is a significant underestimate, with Jake Bowers (a Romany journalist and campaigner) telling us that immigration from Eastern European countries has seen the population grow to between 500,000 and 600,000.² Of these, approximately 60,000 people live in caravans, although this varies throughout the year.³

17. The Gypsy, Roma and Traveller community has faced discrimination and persecution throughout its history and there are a wide range of inequalities that continue to exist. In its April 2019 report into *Tackling inequalities faced by Gypsy, Roma and Traveller communities*, the Women and Equalities Committee highlighted evidence of poor outcomes in gypsy and traveller communities for education, health, economic activity,

1 [2011 Census analysis - What does the 2011 Census tell us about the characteristics of Gypsy or Irish travellers in England and Wales?](#)

2 [Q22](#) (Jake Bowers)

3 [Q22](#) (Marc Willers QC) and [Q32](#) (Bill Forrester, National Association of Gypsy and Traveller Officers)

discrimination and hate crime.⁴ Through our own evidence, we heard that people in the Gypsy, Roma and Traveller community continue to face racism and harassment in the UK. Philomena Mongan is a Community Engagement Officer at London Gypsies and Travellers—a charity supporting members of the Gypsy community in the capital—who told us about her family’s experience of discrimination:

I am the average mum for anyone who does not know me—but there are a majority of small-minded people who pick me out and make me feel different. My kids have also witnessed discrimination being thrown at them. I have been refused entry to clubs, pubs, restaurants, parks, cafés, followed around supermarkets, followed through streets. My kids have been turned away from sports clubs and swimming pools, made to feel ashamed, made to feel embarrassed, made to feel very low and they do not understand why, asking questions that I cannot answer for them. It is really a struggle to be a Traveller, a Gypsy, in London today.⁵

We heard particular concerns regarding the offensive portrayal of Gypsies, Roma and Travellers in the media.⁶ Many of our witnesses expressed their anger at an article written by Matthew Parris—*It’s time we stopped pandering to travellers*⁷—published by The Times a few days before our evidence session in May, which they felt exemplified the prejudice that the Gypsy, Roma and Traveller community are forced to confront in modern Britain.⁸

18. The facts do not support the negative portrayal of the community in so much of the media. Jake Bowers told us that Gypsies, Roma and Travellers were more typically characterised by a strong community spirit and love of family.⁹ Bill Forrester, Chair of the National Association of Gypsy and Traveller Officers (NAGTO)—a representative body for local government officers who work with travellers—explained that, while public authorities did need to deal with some cases of crime and serious harm, the vast majority of encampments did not present any significant challenges.¹⁰ A survey recently undertaken in Kent found that just 20% of unauthorised encampments were causing difficulties for public authorities.¹¹

19. We recognise and welcome the work that the Government is doing in protecting the community, including investing £75,000 to encourage reporting and support for victims of hate crime, as well as the £200,000 for the six community-led pilot projects aimed at improving outcomes in educational attainment and social integration.

20. Václav Havel once said that the litmus test of a civil society is the way it treats its Gypsy, Roma and Traveller community. The Government can do better to protect that way of life and do more to tackle the discrimination that Gypsies, Roma and Travellers continue to face. While a small minority of the travelling community pose challenges for local authorities and law enforcement, the vast majority of Gypsies, Roma and

4 [Tackling inequalities faced by Gypsy, Roma and Traveller communities](#), Women and Equalities Committee, Seventh Report of Session 2017–19, 5 April 2019

5 [Q17](#) (Philomena Mongan)

6 [Q17](#) (Jake Bowers) and [Q28](#) (Marc Willers QC)

7 [It’s time we stopped pandering to Travellers](#), Matthew Parris, The Times, 15 May 2021

8 [Q29](#) (Philomena Mongan, Martin Gallagher, Jake Bowers, Marc Willers QC)

9 [Q26](#) (Jake Bowers)

10 [Q32](#) (Bill Forrester, National Association of Gypsy and Traveller Officers)

11 [Q32](#) (Bill Forrester, National Association of Gypsy and Traveller Officers)

Travellers are law-abiding exponents of a centuries-old way of life. The Government must take particular care to ensure that its actions do not exacerbate the discrimination that continues to be faced by the Gypsy, Roma and Traveller Community.

Unauthorised encampments

21. An unauthorised encampment exists when trespassers occupy land belonging to private landowners or public authorities. Unauthorised sites may be either ‘tolerated’—that is, where the local authority has decided not to seek the removal of the encampment and it is likely to remain indefinitely—or ‘not tolerated’—where, for example, a planning enforcement notice has been served, the results of a planning inquiry are pending, or where an injunction has been sought.

22. We heard that the proportion of unauthorised encampments were very small. As of January 2020 (the last available Government statistics at the time of writing), 12 per cent of all caravans in the January 2020 count were not on an authorised site. Of the total of 22,710 Gypsy and Traveller caravans in England, 694 (3 per cent) were on unauthorised encampments, of which 419 of these caravans were on sites ‘not tolerated’ and 275 were on ‘tolerated’ sites.¹² There were another 2,000 caravans (9 per cent of the total number of caravans) on unauthorised developments—that is, land without formal planning permission for a traveller site.¹³ Deputy Chief Constable Janette McCormick—Lead for Gypsies, Roma and Travellers at the National Police Chiefs’ Council—noted that these most recent statistics showed a “significant reduction” on the 23 per cent of caravans found to be on an unauthorised site or land in 2007.¹⁴

23. Our witnesses were clear that unauthorised encampments are most often established due to a chronic lack of suitable authorised sites across the UK. Whilst we welcome the wider Government support for the provision of traveller sites via the New Homes Bonus which provides an incentive for local authorities to encourage housing growth in their areas including the provision of authorised traveller pitches, Martin Gallagher, an Irish traveller and campaigner for traveller rights, told us:

The problem is the number of sites available [...] It is the fact that there are no sites, no pitches or authorised encampments, and the planning process is criminally unfairly stacked against GRT people building their own accommodation [...] I do not think anybody is fighting for unauthorised encampments. We want places to stay that are safe, that are hygienic and that do not have a risk factor for our health.¹⁵

We heard that unauthorised sites are much less prevalent in areas where local authorities had provided a sufficient number of authorised pitches. For example, Deputy Chief

12 [Traveller caravan count: January 2020](#), Ministry of Housing, Communities and Local Government, published June 2020.

13 Unauthorised encampments’ refer to living on public or privately-owned land without the landowner’s permission. ‘Unauthorised developments’ refer to living on privately-owned land with the owner’s permission, but without planning permission

14 [Q32](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

15 [Q21](#) (Martin Gallagher)

Constable Janette McCormick noted that, “where we have an increasing number of [authorised] sites, we have a direct correlation with a reducing number of unauthorised encampments”.¹⁶

24. The Government says that it is responding to public calls for tougher action on unauthorised encampments.¹⁷ The Government’s response to its 2018 consultation into powers for dealing with unauthorised development and encampments, said that many responses “focused on the mess associated with unauthorised encampments, including fly-tipping, and highlighted the sense of unease and intimidation residents felt when an unauthorised encampment occurs, as well as the frustration at not being able to access amenities”.¹⁸ There were, the Government said, “clear calls” for tougher action:

The consultation responses signalled clear calls for the Government to take action to improve enforcement against unauthorised encampments. For example, only 9 per cent of respondents stated that the current set of powers were effective and only 4 per cent of respondents stated that new or revised police powers were not needed.¹⁹

However, it should be noted that the more recent Government consultation, *Strengthening police powers to tackle unauthorised encampments*—undertaken between November 2019 and March 2020 and which focussed on the current proposals—found that a significant proportion of the 26,000 respondents were opposed to the Government’s proposals to address unauthorised encampments.²⁰

Existing powers

25. The police already have several powers to deal with unauthorised encampments on public or private land. Section 61 of the Criminal Justice and Public Order Act 1994 (CJPOA) provides the police with powers to direct people in unauthorised encampments to leave land if their encampment consists of six or more vehicles or the landowner has taken reasonable steps to ask them to move and they have caused damage to the land or property, or have used threatening, abusive or insulting behaviour to the landowner, their family or employees. Section 62A of the CJPOA allows a senior officer to direct those in an unauthorised encampment to leave land if their encampment consists of at least one vehicle and caravan, the landowner has asked the police to move the encampment, and the local authority can provide a suitable pitch for the caravans elsewhere within their local authority area. Failure to comply with a direction issued by the police under section 61 or 62A of the Act is an offence. It is also an offence for someone who has been issued

16 [Q32](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

17 [Government Response to the Consultation ‘Strengthening Police Powers to Tackle Unauthorised Encampments’](#), Home Office, March 2021, Ministerial Foreword: “The public response to a 2018 consultation on this issue was clear: people want to see more protection for local communities and for the police to be given greater powers to crack down on trespassers.”

18 [Government response to the consultation on powers for dealing with unauthorised development and encampments](#), Ministry of Housing, Communities & Local Government, Home Office, and Ministry of Justice, February 2019, page 16

19 [Government response to the consultation on powers for dealing with unauthorised development and encampments](#), Ministry of Housing, Communities & Local Government, Home Office, and Ministry of Justice, February 2019, page 8

20 [Government Response to the Consultation ‘Strengthening Police Powers to Tackle Unauthorised Encampments’](#), Home Office, March 2021 and [Briefing on new police powers for encampments in Police, Crime, Sentencing and Courts Bill: Part 4](#), Friends, Families and Travellers, March 2021

a direction to return to the relevant site within three months. Those convicted of these offences can be imprisoned for up to three months or fined. The police also have powers under section 62 and 62C of the Act to seize vehicles.

26. In addition, local authorities have a wide range of powers to deal with unauthorised encampments. Section 77 of the CJPOA gives local authorities the power to direct unauthorised campers to leave land, although Bill Forrester described this as a “longer process” than that available to the police under sections 61 and 62A CJPOA.²¹ Local authorities also have the powers outlined in Government guidance on *Dealing with illegal and unauthorised encampments*, including temporary Stop Notices, injunctions, licensing, Possession Orders, and local byelaws.²²

27. Police, local authority and community representatives told us that existing powers to deal with unauthorised encampments were sufficient and new legislation was not necessary, although the Government’s consultation responses were clear that private landowners are concerned by the perceived lack of response to unauthorised encampments and are in favour of more enforcement and the adoption of a more enforcement-led approach by the authorities.²³ However, a Freedom of Information request by Friends, Families and Travellers—a charity representing Gypsy, Roma and Traveller people—found that only 21 per cent of police bodies agreed with the proposals to criminalise unauthorised encampments.²⁴ Deputy Chief Constable Janette McCormick told us “it remains the National Police Chiefs’ Council’s position that we do not seek further legislation to deal with this issue”.²⁵ From the perspective of local authority officers, Bill Forrester of NAGTO said, “The current law is fine”.²⁶ Marc Willers QC—a leading barrister in Gypsy, Roma and Traveller issues—expressed his view that existing powers were “adequate and sufficient”, noting that they were “described as “draconian” by a number of judges in the High Court”.²⁷ Rather than new legislation, he said, what was actually needed was “more sites—temporary, transit and permanent.”²⁸

Criminalisation of unauthorised encampments

28. The Government proposes to make the establishment of an unauthorised encampment without consent in or with a vehicle a criminal offence. Clause 61 would insert sections 60C, 60D and 60E into the *Criminal Justice and Public Order Act 1994*. This would create a new offence of “residing on land without consent in or with a vehicle” and give the police seizure powers, and the Courts forfeiture powers, associated with that offence. Under the new section 60C, people over the age of 18 would commit an offence if they reside or intend to reside on land without consent and: they intend to have or have at least one vehicle with them; one or more of the conditions in subsection 60C(4) are met,

21 [Q35](#) (Bill Forrester, National Association of Gypsy and Traveller Officers)

22 [Dealing with illegal and unauthorised encampments: A summary of available powers](#), Department of Communities and Local Government, Home Office, Ministry of Justice, March 2015

23 Government response to the consultation on powers for dealing with unauthorised development and encampments, Ministry of Housing, Communities & Local Government, Home Office, and Ministry of Justice, February 2019, page 19 and 26.

24 [Even the police don’t want more powers to evict Traveller camps – investigation reveals | Travellers Times](#), 15 September 2020

25 [Q34](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

26 [Q35](#) (Bill Forrester, National Association of Gypsy and Traveller Officers)

27 [Q24](#) (Marc Willers QC)

28 [Q24](#) (Marc Willers QC)

such as a likelihood of causing significant damage or disruption; and, they fail “as soon as reasonably practicable” to move when directed to by the occupier of the land, someone representing them or the police.

A planning issue, not a criminal issue

29. Deputy Chief Constable McCormick told us that, “The issue of unauthorised encampments is a planning issue [which] has now become a policing issue and a criminalisation issue”.²⁹ As outlined earlier, all of our witnesses told us that the primary cause of unauthorised encampments was a lack of authorised sites available to the travelling community. 184 of the 285 authorised sites in operation today were built following the passage of the *Caravan Sites Act 1968*, in the period from 1968 to 1994, when there was a statutory duty to establish authorised sites, with funding provided from the central Government.³⁰ These provisions were repealed under the *Criminal Justice and Public Order Act 1994*, since when, there have been fewer than three authorised sites built in England, on average, every year.³¹ Marc Willers QC outlined the consequences of the repeal of the statutory duty for the Gypsy, Roma and Traveller community:

Without that statutory duty enforced as it should have been by central government, the local authorities failed to assess the needs of Gypsies and Travellers or to identify appropriate land where they might be accommodated and where they might apply for and obtain planning permission—so we have this never-ending cycle of those who have nowhere to station their caravans lawfully, who are being moved around from pillar to post, effectively on a road to nowhere and in situations where they cannot access appropriate healthcare or education. That is why we have, predominantly among those who have nowhere lawfully to stop, particularly high problems in terms of low life expectancy, high maternal mortality rates and low educational attainment.³²

30. It is a problem that is only due to get worse. Research from Friends, Families and Travellers in January 2020 found that only eight out of 68 local authorities in the South East of England had identified a five-year supply of sites for Gypsies and Travellers, while 15 had no identified need for new sites—despite one of those councils, Epsom and Ewell, having been successfully granted an injunction to prevent stopping on 57 sites across the authority area in May 2019.³³ We note that the Equality and Human Rights Commission (EHRC) has called on the Government to “reconsider plans to expand the criminalisation of trespass”, instead advising the Government to “increase the availability of authorised

29 [Q32](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

30 See section 6(1) *Caravan Sites Act 1968*, which provided: “Subject to the provisions of this and the next following section, it shall be the duty of every local authority being [the council of a county,...]2 metropolitan district or London borough]1 to exercise their powers under [section 24](#) of the [Caravan Sites and Control of Development Act 1960](#) (provision of caravan sites) so far as may be necessary to provide adequate accommodation for gipsies residing in or resorting to their area.”

31 [No place to stop: Research on the five year supply of deliverable Gypsy and Traveller sites in the South East of England](#), Emma Nuttall, Victoria Gilmore and Tommy Buck, Friends, Families and Travellers, January 2020

32 [Q18](#) (Marc Willers QC)

33 [No place to stop: Research on the five year supply of deliverable Gypsy and Traveller sites in the South East of England](#), Emma Nuttall, Victoria Gilmore and Tommy Buck, Friends, Families and Travellers, January 2020

sites for the use of the GRT community”.³⁴ However, we do welcome that there was an increase of 41% on the number of transit pitches provided by Local Authorities between the 2010 Traveller Caravan Count and present.³⁵

31. Whilst the Government must protect the rights of all concerned, they should not use the criminal law to address what is essentially a planning issue. Gypsy, Roma and Traveller communities often have little option available to them other than unauthorised encampments, because local authorities are failing to build a sufficient number of authorised sites.

32. *If the Government nonetheless continues to pursue proposals to criminalise unauthorised encampments, the Government should reintroduce a statutory duty on local authorities to make adequate site provision for traveller communities. This would likely have a much greater effect on reducing the number of unauthorised encampments than the imposition of a new criminal offence.*

The need for authorised sites

33. Article 8 ECHR provides a right to respect for private and family life. The Courts have made clear that this right includes a positive obligation on public authorities to “facilitate the gypsy way of life” and to ensure this way of life is protected, including by providing adequate stopping sites for travellers.³⁶ However, imposing criminal offences for residing on unauthorised encampments, where there is no alternative adequate site available in the local area for them to live, risks disproportionately interfering with the Article 8 ECHR right to respect for family and private life of members of the Gypsy and Traveller community.

34. Many of our witnesses said these measures would effectively criminalise homelessness if people do not have somewhere else to go. Jake Bowers told us, “Of course, it criminalises homelessness, this Bill, and it is wrong”, while Marc Willers QC said, “criminalising people for being homeless and not paying any regard to the rather elderly elephant in the room, that being a lack of sites, beggars belief”.³⁷ Without significant caveats and safeguards, it is highly likely that the criminalisation of unauthorised encampments will both engage and breach Article 8 ECHR in a significant number of cases.

35. Without amendment, the Bill is likely to be in breach of the right to respect for private and family life under Article 8 ECHR. To criminalise unauthorised encampments without providing sufficient authorised sites would be contrary to the Government’s obligation to facilitate the Gypsy, Roma and Traveller way of life. We therefore propose that Clause 61 should be removed from the Bill.

36. *We recognise, however, that the Government is likely to retain this Clause. As such, at a minimum, we propose an amendment to the Bill which would only permit criminal sanctions on people living on an unauthorised encampment in circumstances where an*

34 Police, Crime, Sentencing and Courts Bill, Equality and Human Rights Commission briefing, May 2021, page 7

35 [Government response to the consultation ‘Strengthening police powers to tackle unauthorised encampments’](#), Home Office, updated 23 March 2021: “The Government recognises the need for transit and permanent sites to be available. Caravan Count data sets out that transit pitches have increased by 41% (356 pitches) across England and Wales over the last 10 years.”

36 Chapman v UK [2001] ECHR, (Application No. 27239/95), at paragraph 96

37 [Q26](#) (Jake Bowers and Marc Willers QC)

adequate authorised site had been made available by the local authority. This is likely to be a more proportionate interference with Article 8 ECHR rights, as well as rights to health and education for the Gypsy, Roma and Traveller community.

Discrimination

37. Article 14 ECHR requires that all human rights and freedoms shall be secured without discrimination. Consequently, legislation which is found to unfairly discriminate on the basis of race—in this case, Gypsies, Roma and Travellers—would be contrary to Article 14 ECHR, in conjunction with the other human rights engaged. The Equality Act 2010 provides further protection against discrimination, with the travelling community protected under the characteristic of race, which includes ethnic groups. In a policy area in which the rights of the settled community to have access to public amenities must be balanced with those in the Gypsy, Roma and Traveller community to have somewhere to live, it is evident that, through this Bill, the Government has focused solely on measures preferring only one side.

38. Reflecting his concerns around the discriminatory impact of the legislation, Martin Gallagher described it as “stripping away human rights for us”, arguing that “the right to live, children’s rights to be safe and have a home and practise their culture, are all going to be drastically threatened by this Bill.”³⁸ Marc Willers QC told us that there was likely to be a “wholesale challenge” to the legislation if it passes—“even if there is some tinkering [...] with some of the language—because, in his view, it would breach multiple convention rights, including Article 14 ECHR.”³⁹

39. The Government’s proposals, as they stand, are likely to be in contravention of the requirement under Article 14 ECHR that human rights and freedoms be secured without discrimination. Clauses 61 to 63 of the Bill have the potential to discriminate against Gypsy, Roma and Traveller people, putting at risk their right to practise their culture without being unfairly criminalised and are likely to be subject to legal challenge, if unaltered.

Clarity of the proposed legislation

40. Clauses 61 to 63 introduce subjective language into the *Criminal Justice and Public Order Act 1994*, which give rise to concerns around the principle of certainty for criminal offences on the statute book. For example, Clause 61 of the Bill creates conditions for an offence to have been committed, including that “significant damage or significant disruption has been caused or is likely to be caused”, *or* would cause “significant distress”, or that the person “has, or intends to have, at least one vehicle with them on the land”. Marc Willers QC expressed concerns around how these terms would be defined and who would be able to define them:

What is meant by “significant”? What is meant by “damage”? There is a definition section or at least provisions relating to the definition of “damage” but disruption—what constitutes significant disruption? It is all very subjective because [...] the fact that an owner or an occupier can make up their minds as to whether or not significant damage or disruption

38 [Q18 and Q26](#) (Martin Gallagher)

39 [Q28](#) (Marc Willers QC)

or distress has or is likely to be caused and then call the police and say, “Well, look, they have not responded to my request that they leave. I have formed this impression that there is significant damage or disruption or distress likely to be caused. Please arrest them and think about seizing their vehicles too and taking them away to the pound”.⁴⁰

41. Similarly, Deputy Chief Constable Janette McCormick told us there were “a number of areas we are concerned around” in the language of the Bill:

One is this definition of what “significant” means and who defines it as significant. Is it the landowner? Is it the officer? Is there going to be any description about what that is? Damage, disruption and distress: whose distress? Is it the landowner’s? Is it a perception? So defining some of those definitions is important. There is an issue as well in terms of “intends to” if an act is not actually completed, so that is a challenge.⁴¹

She told us that there would need to be “an awful lot of clarification” concerning the language in the Bill and how the Government intends the law to be enforced, which would need to be included in the Secretary of State’s guidance to enable the NPCC to advise Officers. However, at the time of writing, this guidance has not yet been made available for scrutiny.

42. The perceived lack of clarity in some of the language in Part 4 of the Bill has the potential to lead to prosecutions of people because of what someone perceives they intend to do in future. New Section 60C would mean a person “intending to reside” on private land (1a) would commit an offence if “it is likely that significant damage or significant disruption would be caused as a result of [their] residence if they were to reside on the land” (4b). Gypsies, Roma and Travellers would consequently be in the position of potentially committing a criminal offence without having done anything at all, merely having given the impression to another private citizen that they intended to do something. This is very dangerous territory, which risks creating offences whose elements could largely be based on the prejudice of the accuser and, perhaps, the justice system. It risks criminalising people through little more than prejudice and without their having committed any wrongful acts.

43. The wording of Part 4 of the Bill is too vague and offends the principle of legal certainty, which is vital when dealing with criminal law. No person should be punished through laws that lack sufficient legal certainty (Article 7 ECHR) and, moreover, no person’s human rights should be interfered with by laws that lack sufficient legal certainty.

44. The new offence relates to what someone perceives a person may “intend” to do, or damage they are “likely” to cause, “if” they reside on land. The language of the new offence uses multiple terms that are open to wide and often subjective interpretation and as a consequence will allow for prejudice and discrimination to permeate this new offence. It is clear that any infringement of property rights can cause harm to the landowner. However, we must not criminalise people for doing no harm, particularly

40 [Q28](#) (Marc Willers QC)

41 [Q34](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

when those being targeted by the new offence are a historically persecuted minority group who continue to suffer discrimination and prejudice. *We propose that Subsection (4)(b) of new Section 60C, as set out in Clause 61, be left out of the Bill.*

45. The police appear to be uncertain as to how this proposed legislation will be enforced in practice. The Secretary of State is, however, expected to publish guidance for the Police concerning enforcement. *This must be done before the Bill completes all stages in the House of Commons so it can be adequately scrutinised by Members of Parliament. The guidance must ensure that the exercise of these provisions is done in a manner that complies with ECHR rights.*

46. The proposed new clause 60C(4)(d) to the *Criminal Justice and Public Order Act 1994* provides that one of the conditions constitutive of the new offence of criminal trespass is where the person has or is likely to cause significant distress as a result of “offensive conduct”. Offensive conduct is defined in new clause 60C(8) as including the use of “threatening, abusive or insulting words or behaviour”, including in a sign. Criminalising insulting words can be an unjustified interference with the right to free speech under Article 10 ECHR.⁴² This will particularly be the case where there are no free speech protections contained in the offence. In particular, due to similar concerns, the offence under Section 5 of the *Public Order Act 1986* does not contain the word “insulting”, but only “threatening or abusive”.

47. *The word “insulting” should be removed from the definition of “offensive conduct” within Subsection (8) of new Section 60C, as set out in Clause 61. Doing so would continue to catch threatening or abusive behaviour, but without risking an unjustified interference with the right to free speech under Article 10 ECHR. This would also ensure that members of the Gypsy, Roma and Traveller community would not be prosecuted for the language they use in heightened emotional situations, based on an interpretation of ‘insulting’ by other private citizens who may, in some circumstances, be influenced by conscious or unconscious prejudice against them.*

Role of landowners in the criminalisation of travellers

48. The Bill would give landowners, or someone representing them, a role in determining whether people on their land had committed a criminal offence. Consequently, an offence could be committed before an independent third party, such as the police or other legal professional, is able to make a judgement having regard to the human rights implications of the situation, welfare, actions of all interested persons and other relevant factors.

49. Police officers could be forced to act without adequately considering the proportionality of that action or having regard to any welfare considerations; putting the police in, what Mark Willers QC described as, “an invidious position”.⁴³ Deputy Chief Constable Janette McCormick told us that there was also a risk that leaving decisions to individual landowners could lead to a variation in terms of the threshold by which this

42 See for example, DPP v Percy [2001] EWCA Admin 1125

43 [Q28](#) (Marc Willers QC)

criminal offence will be committed.⁴⁴ She expressed concern that some landlords might be motivated by “prejudices around Gypsies and Travellers” in circumstances where there will be heightened emotions.⁴⁵

50. Marc Willers QC told us that this role for landowners, alongside the lack of clarity in the language used in Part 4 of the Bill, would create a lack of certainty as to whether a criminal offence had been committed, consequently giving rise to concerns around legal certainty under Article 7 ECHR (no punishment without law).⁴⁶ The lack of safeguards as to who, how and when a prosecution can be brought, similarly risks engaging the right to family life and freedom from discrimination in the application of the offence.

51. Further, Martin Gallagher expressed his view that it was a “dangerous precedent” to allow a member of the public to determine whether you had committed a criminal offence.⁴⁷ As it stands, the Bill muddies the water between civil and criminal law, inserting a private actor into what should be a matter between an individual and the State.

52. There are far too many risks inherent in a system that effectively criminalises a civil law matter. This is all the more concerning given that some landowners could be motivated by overt, or unconscious, prejudice against Gypsy, Roma and Traveller people. This, combined with a lack of clarity in the language of the Bill, could lead to violations of the principle of no punishment without law (Article 7 ECHR), the right to private and family life (Article 8 ECHR) and freedom from discrimination in the enjoyment of these rights (Article 14 ECHR).

53. Clearly landowners have a right to ask people to leave their property. However, we propose an amendment to the Bill so that in order for this criminal offence to be committed, it would be due to a failure to comply with a request from a police officer asking unauthorised occupiers to leave private land.

Seizure of property

54. The Bill would give the police the right to seize the property of people living on unauthorised encampments, including their caravans—which, in many cases, will be their primary residence. The proposed section 60D of the *Criminal Justice and Public Order Act 1994* would give officers the power to seize any relevant property, including vehicles, from those they “reasonable suspect” have committed an offence. Property seized by the police under section 60D could be kept for up to three months. The new section 60E would allow the court to issue forfeiture orders relating to items seized under section 60D when people are convicted of a section 60C offence.

55. Protocol 1 Article 1 (A1P1) of the ECHR provides that every person is entitled to the peaceful enjoyment of his possessions. This right is relevant to proposals within the Bill to seize the property of Gypsies, Roma and Travellers who are accused of residing or intending to reside in an unauthorised encampment. Also relevant is the Article 8 ECHR right to respect for private and family life, including a person’s home. There are situations when public authorities can interfere with these rights, such as to prevent disorder or crime or protect the rights and freedoms of other people.

44 [Q35](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

45 [Q35](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

46 [Q28](#) (Marc Willers QC)

47 [Q27](#) (Martin Gallagher)

56. The question is whether it would ever be proportionate to seize a person’s primary residence—their caravan—and effectively render them homeless and unable to pursue their way of life. This is a very real possibility. Liberty—a human rights advocacy group—have said that these provisions mean Gypsy, Roma and Traveller people will have “the very real threat of having their homes removed and finding themselves homeless”.⁴⁸

57. We heard about the impact that this would have on children, with Martin Gallagher telling us that these provisions were “going to cause homeless children”. As a signatory to the UN Convention on the Rights of the Child, the Government has an obligation to ensure that the best interests of children must be a priority in all decisions and actions that affect children.⁴⁹ Legislation that contributes to a child becoming homeless would clearly undermine this.

58. Deputy Chief Constable Janette McCormick expressed concerns around the police’s role in potentially making a family homeless, again emphasising the importance of receiving clear guidance from the Secretary of State.⁵⁰ She noted that the lack of clarity around the liability that police officers would face:

We are not seizing a vehicle here. We are seizing somebody’s home. There is a concern of where the police sit in terms of: are we intentionally making somebody homeless by doing that and where do we sit in terms of liability? [...] there are an awful lot of gaps to understand, in terms of the legal liability that we have of making somebody homeless, and the responsibilities around safeguarding of young people and making them homeless [...] Also, some of these people might be very vulnerable. You have whole families from ageing people to young people and you have to provide the provision and accommodation for those. We would have to work closely with local authorities to understand how we would practically implement the legislation as well.

59. ***New powers for the police to seize property, including vehicles, must never be used to make Gypsy, Roma and Traveller people homeless, particularly children and older people. We propose an amendment to the Bill which would ensure that the police could never seize a person’s caravan if that is their principal home and they would have nowhere else to live.***

48 [Briefing on the Police, Crime, Sentencing and Courts Bill for Second Reading in the House of Commons](#), Liberty, March 2021, para 31

49 [UN Convention on the Rights of the Child \(UNCRC\) - UNICEF UK](#), accessed June 2021

50 [Q36](#) (Deputy Chief Constable Janette McCormick, National Police Chiefs’ Council)

Conclusions and recommendations

Unauthorised encampments

1. Václav Havel once said that the litmus test of a civil society is the way it treats its Gypsy, Roma and Traveller community. The Government can do better to protect that way of life and do more to tackle the discrimination that Gypsies, Roma and Travellers continue to face. While a small minority of the travelling community pose challenges for local authorities and law enforcement, the vast majority of Gypsies, Roma and Travellers are law-abiding exponents of a centuries-old way of life. The Government must take particular care to ensure that its actions do not exacerbate the discrimination that continues to be faced by the Gypsy, Roma and Traveller Community. (Paragraph 20)
2. Whilst the Government must protect the rights of all concerned, they should not use the criminal law to address what is essentially a planning issue. Gypsy, Roma and Traveller communities often have little option available to them other than unauthorised encampments, because local authorities are failing to build a sufficient number of authorised sites. (Paragraph 31)
3. *If the Government nonetheless continues to pursue proposals to criminalise unauthorised encampments, the Government should reintroduce a statutory duty on local authorities to make adequate site provision for traveller communities. This would likely have a much greater effect on reducing the number of unauthorised encampments than the imposition of a new criminal offence.* (Paragraph 32)
4. Without amendment, the Bill is likely to be in breach of the right to respect for private and family life under Article 8 ECHR. To criminalise unauthorised encampments without providing sufficient authorised sites would be contrary to the Government's obligation to facilitate the Gypsy, Roma and Traveller way of life. *We therefore propose that Clause 61 should be removed from the Bill.* (Paragraph 35)
5. *We recognise, however, that the Government is likely to retain this Clause. As such, at a minimum, we propose an amendment to the Bill which would only permit criminal sanctions on people living on an unauthorised encampment in circumstances where an adequate authorised site had been made available by the local authority. This is likely to be a more proportionate interference with Article 8 ECHR rights, as well as rights to health and education for the Gypsy, Roma and Traveller community.* (Paragraph 36)
6. The Government's proposals, as they stand, are likely to be in contravention of the requirement under Article 14 ECHR that human rights and freedoms be secured without discrimination. Clauses 61 to 63 of the Bill have the potential to discriminate against Gypsy, Roma and Traveller people, putting at risk their right to practise their culture without being unfairly criminalised and are likely to be subject to legal challenge, if unaltered. (Paragraph 39)
7. The wording of Part 4 of the Bill is too vague and offends the principle of legal certainty, which is vital when dealing with criminal law. No person should be

punished through laws that lack sufficient legal certainty (Article 7 ECHR) and, moreover, no person's human rights should be interfered with by laws that lack sufficient legal certainty. (Paragraph 43)

8. The new offence relates to what someone perceives a person may “intend” to do, or damage they are “likely” to cause, “if” they reside on land. The language of the new offence uses multiple terms that are open to wide and often subjective interpretation and as a consequence will allow for prejudice and discrimination to permeate this new offence. It is clear that any infringement of property rights can cause harm to the landowner. However, we must not criminalise people for doing no harm, particularly when those being targeted by the new offence are a historically persecuted minority group who continue to suffer discrimination and prejudice. *We propose that Subsection (4)(b) of new Section 60C, as set out in Clause 61, be left out of the Bill.* (Paragraph 44)
9. The police appear to be uncertain as to how this proposed legislation will be enforced in practice. The Secretary of State is, however, expected to publish guidance for the Police concerning enforcement. *This must be done before the Bill completes all stages in the House of Commons so it can be adequately scrutinised by Members of Parliament. The guidance must ensure that the exercise of these provisions is done in a manner that complies with ECHR rights.* (Paragraph 45)
10. *The word “insulting” should be removed from the definition of “offensive conduct” within Subsection (8) of new Section 60C, as set out in Clause 61. Doing so would continue to catch threatening or abusive behaviour, but without risking an unjustified interference with the right to free speech under Article 10 ECHR. This would also ensure that members of the Gypsy, Roma and Traveller community would not be prosecuted for the language they use in heightened emotional situations, based on an interpretation of ‘insulting’ by other private citizens who may, in some circumstances, be influenced by conscious or unconscious prejudice against them.* (Paragraph 47)
11. There are far too many risks inherent in a system that effectively criminalises a civil law matter. This is all the more concerning given that some landowners could be motivated by overt, or unconscious, prejudice against Gypsy, Roma and Traveller people. This, combined with a lack of clarity in the language of the Bill, could lead to violations of the principle of no punishment without law (Article 7 ECHR), the right to private and family life (Article 8 ECHR) and freedom from discrimination in the enjoyment of these rights (Article 14 ECHR). (Paragraph 52)
12. *Clearly landowners have a right to ask people to leave their property. However, we propose an amendment to the Bill so that in order for this criminal offence to be committed, it would be due to a failure to comply with a request from a police officer asking unauthorised occupiers to leave private land.* (Paragraph 53)
13. *New powers for the police to seize property, including vehicles, must never be used to make Gypsy, Roma and Traveller people homeless, particularly children and older people. We propose an amendment to the Bill which would ensure that the police could never seize a person's caravan if that is their principal home and they would have nowhere else to live.* (Paragraph 59)

Annex: Amendments to Part 4 of the Police, Crime, Sentencing and Courts Bill

The following amendments will be tabled by the Chair of the Committee, Harriet Harman MP, prior to the Report Stage debate of the Police, Crime, Sentencing and Courts Bill in the House of Commons:⁵¹

- Amendment 1: to remove Clause 61 from the Bill. Without amendment, the Bill is likely to be in breach of a number of human rights (para 35);
- Amendment 2: to reintroduce a statutory duty to require that local authorities provide authorised sites for the Gypsy, Roma and Traveller community to live on (para 32);
- Amendment 3: to provide that an offence is not committed unless an adequate authorised site had been made available by the local authority (para 36);
- Amendment 4: to remove a condition for committing an offence that could be used to unfairly open to wide and often subjective interpretation and allow for prejudice and discrimination (para 44);
- Amendment 5: to remove the condition whereby insulting language can be one of the conditions leading to a criminal offence (para 47);
- Amendment 6: to remove the role for the landowner in establishing the offence of criminal trespass and require decisions to be made solely by a police officer (para 53); and
- Amendment 7: to provide that the seizure of vehicles provisions do not apply to a vehicle that is a person’s primary residence if that would make that person homeless (para 59).

Amendment 1: Delete the new offence of criminal trespass

Page 55, line 23, leave out Clause 61

Member’s explanatory statement

Clause 61 of the Bill would criminalise people who live on, or intend to live on, unauthorised encampments and provides powers to the police to confiscate property, including caravans.

Amendment 2: statutory duty

To move the following clause—

“Duty of local authorities to provide sites for Gypsies, Roma and Travellers

⁵¹ Amendments to Clauses outlined in this Annex correspond to the version of the Bill as introduced to the House on 9 March 2021

(1) It is the duty of every local authority to exercise their powers under section 24 of the Caravan Sites and Control of Development Act 1960 (provision of caravan sites) so as to provide adequate accommodation for Gypsies, Roma and Travellers residing in or resorting to their area.

(2) The Minister may, if at any time it appears to them to be necessary to do so, give directions to any such local authority requiring them to provide such sites or additional sites for the accommodation of such numbers of caravans as may be specified in the directions.”

Members explanatory statement

To reintroduce a statutory duty to require that local authorities provide authorised sites for the Gypsy, Roma and Traveller community.

Amendment 3: requirement for an adequate site

Clause 61, page 55, line 40, at end insert–

“(1A) A constable may only make a request under subsection (1)(d) where the constable has ascertained from the local authority within whose area the land is situated that there is a suitable pitch for P’s caravan or caravans on a relevant caravan site which is situated in the local authority’s area and that P has been informed of that.

(1B) For the purposes of this Section, “caravan”, “caravan site”, “relevant caravan site”, “relevant site manager” and “registered social landlord” have the same meanings as in section 62A(6) of the Criminal Justice and Public Order Act 1994.”

Member’s explanatory statement

This amendment, taken with Amendment 6, would provide that a person only commits an offence where they are trespassing on land having been offered a suitable pitch at a caravan site in the local authority’s area.

Amendment 4: language open to prejudicial interpretation

Clause 61, page 56, line 13, leave out from beginning to the end of line 15

Member’s explanatory statement

This amendment would remove the condition that was based on the potential of a person to trespass and to cause damage.

Amendment 5: insulting language

Clause 61, page 57, line 25, leave from beginning to end of line 28 and insert—

- “(a) the use of threatening or abusive words or behaviour, or disorderly behaviour, or;
- (b) the display of any writing, sign, or other visible representation that is threatening or abusive;”

Member's explanatory statement

This amendment removes ‘insulting words or behaviour’ from the definition of ‘offensive conduct’.

Amendment 6: requirement for an independent third party

Clause 61, page 55, line 36, leave out line 36 and insert—

“(d) a constable, following a request of the occupier or a representative of the occupier,”

Member's explanatory statement

This amendment would provide that, as part of the conditions for the new offence of criminal trespass only a police officer could request a person to leave land and only following a request by the occupier of the land.

Amendment 7: protection from homelessness

Clause 61, page 58, line 7, at end insert “, but

does not include any property that is, or forms part of, P’s principal residence”.

Member's explanatory statement

This amendment would provide that a police officer does not have the power to seize a vehicle that is a person’s home.

Declaration of Interests¹

Lord Brabazon of Tara

- No relevant interests to declare

Lord Dubs

- No relevant interests to declare

Lord Henley

- No relevant interests to declare

Baroness Ludford

- No relevant interests to declare

Baroness Massey of Darwen

- No relevant interests to declare

Lord Singh of Wimbledon

- No relevant interests to declare

¹ A full list of Members' interests can be found in the Register of Lords' Interests: <http://www.parliament.uk/mpslords-and-offices/standards-and-interests/register-of-lords-interests/>

Formal minutes

Wednesday 30 June 2021

Virtual Meeting

Members present:

Ms Harriet Harman MP, in the Chair

Lord Brabazon of Tara	Baroness Massey of Darwen
Joanna Cherry MP	Angela Richardson MP
Lord Dubs	Dean Russell MP
Florence Eshalomi MP	David Simmonds MP
Lord Henley	Lord Singh of Wimbledon
Baroness Ludford	

Draft Report (*Police, Crime, Sentencing and Courts Bill (Part 4): The criminalisation of unauthorised encampments*), proposed by the Chair, brought up and read.

Ordered, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 59 read and agreed to.

Summary and Annex agreed to.

Resolved, That the Report be the Fourth Report of the Committee to both Houses.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till 14 July at 2.40pm.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee’s website¹.

Wednesday 19 May 2021

Philomena Mongan, Community Engagement Officer, London Gypsies and Travellers; **Martin Gallagher**, **Gypsy, Roma and Traveller campaigner**; **Jake Bowers**, **Romany journalist and campaigner**; **Marc Willers QC**, Barrister, Garden Court Chambers

[Q16–30](#)

Deputy Chief Constable Janette McCormick, Lead for Gypsies, Roma and Travellers, National Police Chiefs’ Council; **Bill Forrester**, Chair, National Association of Gypsy and Traveller Officers

[Q31–36](#)

1 [Written evidence submitted to the Committee’s scrutiny of the Police, Crime, Sentencing and Courts Bill](#)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2021–22

Number	Title	Reference
1st	Children of mothers in prison and the right to family life: The Police, Crime, Sentencing and Courts Bill	HC 90
2nd	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 (Public Order)	HC 331

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1st	Draft Jobseekers (Back to Work Schemes) Act 2013 (Remedial) Order 2019: Second Report	HC 146
2nd	Draft Human Rights Act 1998 (Remedial) Order: Judicial Immunity: Second Report	HC 148
3rd	Human Rights and the Government's Response to Covid-19: Digital Contact Tracing	HC 343
4th	Draft Fatal Accidents Act 1976 (Remedial) Order 2020: Second Report	HC 256
5th	Human Rights and the Government's response to COVID-19: the detention of young people who are autistic and/or have learning disabilities	HC 395 (CP 309)
6th	Human Rights and the Government's response to COVID-19: children whose mothers are in prison	HC 518 (HC 518)
7th	The Government's response to COVID-19: human rights implications	HC 265 (CP 335)
8th	Legislative Scrutiny: The United Kingdom Internal Market Bill	HC 901 (HC 901)
9th	Legislative Scrutiny: Overseas Operations (Service Personnel and Veterans) Bill	HC 665 (HC 1120)
10th	Legislative Scrutiny: Covert Human Intelligence Sources (Criminal Conduct) Bill	HC 847 (HC 1127)
11th	Black people, racism and human rights	HC 559 (HC 1210)
12th	Appointment of the Chair of the Equality and Human Rights Commission	HC 1022
13th	The Government response to covid-19: freedom of assembly and the right to protest	HC 1328
14th	The Government response to covid-19: fixed penalty notices	HC 1364
15th	Care homes: Visiting restrictions during the covid-19 pandemic	
1st Special Report	The Right to Privacy (Article 8) and the Digital Revolution: Government Response to the Committee's Third Report of Session 2019	HC 313
2nd Special Report	Legislative Scrutiny: Covert Human Intelligence Sources (Criminal Conduct) Bill: Government Response to the Committee's Tenth Report of Session 2019–21	HC 1127