

GRT 02

Ymgynghoriad ar ddarparu safleoedd ar gyfer cymunedau Sipsiwn, Roma a Theithwyr

Consultation on the provision of sites for Gypsy, Roma and Travellers

Ymateb gan: Comisiynydd Plant Cymru

Response from: Children's Commissioner for Wales



## **Ymateb i Ymgynghoriad / Consultation Response**

Date / Dyddiad: 19/5/22

Subject / Pwnc: Ymgynghoriad ar yr ymchwiliad i ddarparu safleoedd ar gyfer cymunedau Sipsiwn, Roma a Theithwyr / Consultation on the inquiry into the provision of sites for Gypsy, Roma and Travellers

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of the Senedd that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure

2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

**Gypsy and Traveller Accommodation Assessments (GTAA)s are intended to assess the accommodation needs of the Gypsy, Roma and Traveller community. In your view, are Welsh local authorities as a whole, implementing, monitoring and reviewing GTAA)s effectively?**

Despite reference to the UNCRC and the inclusivity of children in the Welsh Government [GTAA guidance](#), one local authority has indicated to my office that they were unaware that due regard to children's rights was needed throughout this process. From a selection of GTAA reports reviewed, there seems to be significant lack of reference to children's participation and inclusivity in the process. Whilst this may not be reflective of the approach in all local authorities across Wales, I would like to draw attention to the importance of children's participation and hearing their views as part of this process in line with the UNCRC (article 12). Given that over [a third of the Gypsy, Roma and Traveller population are under 18](#), it is significant in ensuring their views are represented in assessing both the current and future need of site provision in Wales.

Another observation from reviewing GTAA reports was barriers to engaging with travelling members of the communities. This lack of engagement presents a risk of a data gap with their needs not being identified or met in any local authority across Wales and the continued inaction on transit site development.

Er gwaethaf cyfeiriadau at CCUHP a chynwysoldeb o safbwynt plant yng [nghanllawiau GTAA](#) Llywodraeth Cymru, mae un awdurdod lleol wedi sôn wrth fy swyddfa nad oedden nhw'n ymwybodol bod angen rhoi sylw dyledus i hawliau plant ar hyd y broses hon. Ar sail detholiad o adroddiadau GTAA a adolygwyd, ymddengys bod diffyg cyfeirio sylweddol at gyfranogiad plant a'u cynnwys yn y broses. Er nad yw hyn o bosib yn adlewyrchu dull gweithredu holl awdurdodau lleol Cymru,

hoffwn dynnu sylw at bwysigrwydd cyfranogiad plant a chlywed eu barn fel rhan o'r broses hon, yn unol â CCUHP (erthygl 12). Gan fod dros [draean o'r boblogaeth Sipsiwn, Roma a Theithwyr o dan 18](#), mae'n bwysig sicrhau bod eu barn yn cael ei chynrychioli wrth asesu'r angen am ddarparu safleoedd yn awr ac yn y dyfodol yng Nghymru.

Sylw arall yn sgîl adolygu adroddiadau GTAA oedd rhwystrau i ymgysylltu ag aelodau teithiol o'r cymunedau. Mae'r diffyg ymgysylltu hwn yn golygu bod perygl bwlch yn y data, heb nodi eu hanghenion na'u diwallu mewn unrhyw awdurdod lleol ledled Cymru, a diffyg gweithredu parhaus yng nghyswllt datblygu safleoedd tramwy.

**Does the current statutory and policy framework ensure sufficient culturally-appropriate Gypsy, Roma and Traveller residential and transit sites across Wales and within individual local authorities?**

Despite being a statutory duty under the Housing Act (2014) to assess and provide residential and transit provision, it is my understanding is that there continues to be zero transit sites available across Wales ([TGP Cymru, 2022](#)). Whilst the Housing Act (2014) should enable local authorities to provide appropriate accommodation, [TGP Cymru](#) reports that there has been slow progress in site development with some families left with poor facilities, subject to overcrowding or threatened with enforcement. This presents as a particular concern to children and poses a risk to their rights under the UNCRC.

Whilst Welsh Government's plan '[Enabling Gypsies, Roma and Travellers](#)' (2018) and housing legislation demonstrates a commitment to culturally appropriate accommodation across Wales, there does not seem to be a consistent and proactive approach to enacting this by all local authorities. Under article 27 of the UNCRC, children have the right to adequate living standards, and under the current delivery model I remain concerned that this right is not being delivered equitably for Gypsy, Roma and Traveller children across all local authorities in Wales.

I am aware of a number of residential sites which are located in the vicinity of unsafe and unhealthy environments with examples in close proximity to 'A' roads or refuse sites. Similar findings were found in [research in England](#) which highlighted concerns regarding inequality and systemic racism within planning procedures. Given that air quality is the [biggest environmental health challenge](#) facing the global population, this presents as a concern when considering the sufficiency of provision, particularly in regards to children's rights regarding health and adequate living standards (Article 24 & Article 27). [Welsh government guidance](#) highlights the need to consider environmental issues such as air pollution in designing sites however in practice sites continue to be developed in areas which could be considered a public health concern.

Traveller children and support workers have raised concerns with my office regarding the accessibility of sites and lack of access to services such as play facilities, or safe walkways. Despite these factors being listed by Welsh Government in the [guidance for planning of sites](#), in practice there appears to be a need for further consideration of these issues. These children and workers have spoken about the impacts on children's access to school and play, so I believe this infringes on children's rights to play/leisure and an education (article 31 & article 28). More is required from local authorities to ensure practice reflects the guidance, providing sustainable and equitable site provision for Gypsy, Roma and Traveller communities. This also reflects local authorities' duty to consider the Wellbeing Goals set out in the Future Generations Act (2015) to promote health, equality and cohesive communities and ensure this is inclusive of Gypsy, Roma and Traveller communities.

The points highlighted raise a number of concerns which are considered throughout the Welsh Government framework, however, on a delivery level are inconsistent and fail to meet the needs of the Gypsy, Roma and Traveller Communities. Whilst the framework may present a positive commitment, the lack of progress by local authorities demonstrates a need for further accountability and for local authorities to be monitored on their progress. This would further safeguard children's rights and ensure the commitment embedded in policy framework is delivered consistently across Wales.

Er bod dyletswydd statudol o dan Ddeddf Tai (2014) i asesu a darparu safleoedd preswyl a thramwy, o'r hyn rwy'n deall mae nifer y safleoedd tramwy sydd ar gael yng Nghymru yn dal yn sero ([TGP Cymru, 2022](#)). Er y dylai Deddf Tai (2014) alluogi awdurdodau lleol i ddarparu llety priodol, mae [TGP Cymru](#) yn adrodd bod y cynnydd o ran datblygu safleoedd wedi bod yn araf, gyda rhai teuluoedd yn cael eu gadael â chyfleusterau gwael, lle ceir gorlenwi, neu fygythiad o orfodaeth. Mae hyn yn bryder arbennig i blant ac yn peryglu eu hawliau o dan CCUHP.

Er bod cynllun Llywodraeth Cymru '[Galluogi Sipsiwn, Roma a Theithwyr](#)' (2018) a deddfwriaeth tai yn arddangos ymrwymiad i lety priodol o ran diwylliant ledled Cymru, nid ymddengys bod agwedd gyson a rhagweithiol at weithredu hyn gan bob awdurdod lleol. O dan erthygl 27 o CCUHP, mae gan blant hawl i safonau byw sy'n ddigonol, ac o dan y model cyflawni cyfredol rwy'n dal i bryderu nad yw'r hawl hon yn cael ei sicrhau'n gyfartal i blant Sipsiwn, Roma a Theithwyr ar draws holl awdurdodau lleol Cymru.

Rwy'n ymwybodol o nifer o safleoedd preswyl sydd yn ymyl amgylcheddau anniogel ac afiach, er enghraifft rhai sy'n agos iawn at ffyrdd 'A' neu safleoedd gwastraff. Cafwyd canfyddiadau tebyg mewn [gwaith ymchwil yn Lloegr](#) oedd yn amlygu pryderon ynghylch anghydraddoldeb a hiliaeth systemig mewn gweithdrefnau cynllunio. Gan mai ansawdd aer yw'r [her iechyd amgylcheddol fwyaf](#) mae poblogaeth y byd yn ei hwynebu, mae hynny'n destun pryder wrth ystyried digonolrwydd y ddarpariaeth, yn arbennig yng nghyswllt hawliau plant o ran iechyd a safonau byw sy'n ddigonol (Erthygl 24 ac Erthygl 27). Mae [canllawiau Llywodraeth Cymru](#) yn amlygu'r angen am ystyried materion amgylcheddol fel llygredd aer wrth ddylunio safleoedd, ond yn ymarferol, fodd bynnag, mae safleoedd yn dal i gael eu datblygu mewn ardaloedd y gellid eu hystyried yn destun pryder o safbwynt iechyd cyhoeddus.

Mae plant teithwyr a gweithwyr cefnogi wedi codi pryderon gyda'm swyddfa ynghylch hygyrchedd safleoedd a diffyg mynediad at wasanaethau fel cyfleusterau chwarae, neu lwybrau cerdded diogel. Er bod y ffactorau hyn wedi'u rhestru gan Lywodraeth Cymru yn y [canllawiau ar gyfer cynllunio safleoedd](#), yn ymarferol ymddengys bod angen ystyried y materion hyn ymhellach. Mae'r plant a'r gweithwyr hyn wedi sôn am yr effeithiau ar fynediad plant i'r ysgol a chwarae, felly rwy'n

credu bod hyn yn amharu ar hawliau plant i chwarae/hamdden a chael addysg (erthygl 31 ac erthygl 28). Mae angen mwy gan awdurdodau lleol i sicrhau bod yr ymarfer yn adlewyrchu'r canllawiau, gan ddarparu safleoedd cynaliadwy, teg i gymunedau Sipsiwn, Roma a Theithwyr. Mae hefyd yn adlewyrchu dyletswydd awdurdodau lleol i ystyried y Nodau Llesiant a geir yn Neddf Cenedlaethau'r Dyfodol (2015) i hybu iechyd, cydraddoldeb a chymunedau cydlynus, a sicrhau bod hynny'n cynnwys cymunedau Sipsiwn, Roma a Theithwyr.

Mae'r pwyntiau a amlygwyd yn codi nifer o bryderon sydd yn cael eu hystyried ym mhob rhan o fframwaith Llywodraeth Cymru, ond ar lefel gyflawni maen nhw'n anghyson, ac yn methu ag ymateb i anghenion y Cymunedau Sipsiwn, Roma a Theithwyr. Er y gall y fframwaith gyflwyno ymrwymiad cadarnhaol, mae'r diffyg cynnydd gan awdurdodau lleol yn dangos bod angen mwy o atebolrwydd, ac i gynnydd awdurdodau lleol gael ei fonitro. Bydd hynny'n diogelu hawliau plant ymhellach, ac yn sicrhau bod yr ymrwymiad sydd wedi'i wreiddio yn y fframwaith polisi yn cael ei gyflwyno'n gyson ledled Cymru.

**What are the key challenges for Welsh local authorities, and the Welsh Government, in providing suitable and sufficient accommodation sites for Gypsy, Roma and Traveller communities?**

It is important to consider how local authorities prioritise the needs of Gypsy, Roma and Traveller communities, enacting their duty to provide appropriate and sufficient accommodation whilst managing the tensions which may arise within the wider community. There have been a number of examples of increased community tensions in response to the identification of site locations. [The Equality and Human Rights Committee](#) highlights concerns regarding negative media campaigns, or comments and protests which in some cases have been supported by elected members in Wales. More action is needed to tackle the underlying intolerance of Gypsy, Roma and Traveller communities and their right to adequate accommodation.

It is essential that public figures do not exacerbate the existing prejudice between communities and seek to promote equality in line with their statutory obligation set out within ['The Code of Conduct for members of local authorities](#)

[in Wales'](#) and [The Public Sector Equality Duty](#). I fear that the prejudice, which can result in negative campaigns, has the potential to have a devastating impact on Gypsy, Roma and Traveller children's safety and wellbeing who continue to live and go to school in these areas. A [report](#) highlights the link between hate incidents, such as online comments, and poor mental health, suicide and suicide attempts. Urgent action is required to safeguard children throughout this process, and uphold their rights.

In addition to this, Councillor and community objections are considered the [biggest barrier to site development](#), therefore in order to address the lack of provision more needs to be done to tackle the prejudice which exists within local authorities and at a community level to prevent discrimination in decision-making processes. Managing community tensions distracts from local authorities' duty to address the needs of Gypsy, Roma and Traveller communities and ability to effectively work with community members to identify and develop site locations. Despite statutory guidance and funding to support the development of sites, the slow progress of local authorities suggests a lack of political will to provide suitable and sufficient accommodation sites. Due to mistrust of authority there is some hesitation in engagement in discussions with local authorities, as an example fear of involvement from social services has been reported to my office. Building trust with marginalised communities to promote engagement in processes (such as the GTAA) is essential and local authorities must recognise their role in this, building effective relationships, promoting active participation and discussions regarding accommodation needs with Gypsy, Roma and Traveller communities.

Mae'n bwysig ystyried sut mae awdurdodau lleol yn rhoi blaenoriaeth i anghenion cymunedau Sipsiwn, Roma a Theithwyr, gan gyflawni eu dyletswydd i ddarparu llety priodol a digonol, ochr yn ochr â rheoli'r tensiynau a all godi yn y gymuned ehangach. Gwelwyd nifer o enghreifftiau o densiwn cymunedol uwch mewn ymateb i nodi lleoliadau safleoedd. Mae'r [Pwyllgor Cydraddoldeb a Hawliau Dynol](#) yn amlygu pryderon ynghylch ymgyrchoedd negyddol yn y cyfryngau, neu sylwadau a phrotestiadau sydd wedi cael eu cefnogi mewn rhai achosion gan aelodau etholedig yng Nghymru. Mae angen mwy o weithredu i fynd i'r afael â'r diffyg goddefgarwch gwaelodol at gymunedau Sipsiwn, Roma a Theithwyr a'u hawl i gael llety digonol.

Mae'n hanfodol nad yw ffigurau cyhoeddus yn ychwanegu at y rhagfarn sydd eisoes yn bodoli rhwng cymunedau, a'u bod yn ceisio hybu cydraddoldeb yn unol â'u rhwymedigaeth statudol a nodir yn ['Y Côd Ymddygiad i aelodau awdurdodau lleol yng Nghymru'](#) a [Dyletswydd Cydraddoldeb y Sector Cyhoeddus](#). Rwy'n ofni y gallai'r rhagfarn, y gall ymgyrchoedd negyddol ddeillio ohoni, gael effaith drychinebus ar ddiogelwch a llesiant plant Sipsiwn, Roma a Theithwyr sy'n parhau i fyw a mynd i'r ysgol yn yr ardaloedd hyn. Mae [adroddiad](#) yn amlygu'r cysylltiad rhwng digwyddiadau atgasedd, fel sylwadau ar-lein, a iechyd meddwl gwael, hunanladdiad, ac ymdrechion i gyflawni hunanladdiad. Mae angen gweithredu ar frys i ddiogelu plant ar hyd y broses hon, a chynnal eu hawliau.

Ar ben hyn, bernir mai gwrthwynebiadau Cynghorwyr a chymunedau yw'r [rhwystyr pennaf i ddatblygu safleoedd](#), felly er mwyn rhoi sylw i'r diffyg darpariaeth mae angen gwneud mwy i daclo'r rhagfarn sy'n bodoli mewn awdurdodau lleol ac ar lefel gymunedol, i atal camwahaniaethu mewn prosesau gwneud penderfyniadau. Mae rheoli tensiynau cymunedol yn tynnu sylw oddi wrth ddyletswydd awdurdodau lleol i roi sylw i anghenion cymunedau Sipsiwn, Roma a Theithwyr a'u gallu i weithio'n effeithiol gydag aelodau o'r cymunedau hynny i ganfod a datblygu lleoliadau safle. Er gwaethaf canllawiau statudol a chyllid i gefnogi datblygiad safleoedd, mae cynnydd araf awdurdodau lleol yn awgrymu diffyg ewyllys wleidyddol i ddarparu safleoedd llety addas a digonol. Oherwydd diffyg ymddiriedaeth mewn awdurdod, mae peth petruso wrth ymuno mewn trafodaethau gydag awdurdodau lleol, er enghraifft soniwyd wrth fy swyddfa am ofn y bydd y gwasanaethau cymdeithasol yn rhan o'r broses. Mae meithrin ymddiriedaeth gyda chymunedau sydd ar y cyrion i hybu eu hymwneud â phrosesau (fel y GTAA) yn hanfodol, a rhaid i awdurdodau lleol gydnabod eu rôl yn hyn, gan feithrin perthynas effeithiol, hybu cyfranogiad gweithredol a thrafodaethau ynghylch anghenion llety gyda chymunedau Sipsiwn, Roma a Theithwyr.

**Do you anticipate that when/if the UK Government's Police, Crime, Sentencing and Courts Bill comes into force there will be:**

- a) specific challenges to overcome, and/or b) in certain locations in Wales, related to Gypsy, Roma and Traveller sites?**



The Police, Crime, Sentencing and Courts Bill section 4 presents as a huge challenge to protecting the rights of Gypsy, Roma and Traveller children and their families. By criminalising trespass, this bill has the potential to force families into the criminal justice and care system, and through the removal of vehicles leave families homeless. [Draft guidance](#) from UK Government to police forces also presents as a particular concern stating they "*should not gold-plate human rights and equalities legislation*". Despite [Police forces indicating](#) that they are unsupportive of the criminalisation of trespass, this guidance undermines efforts to tackle inequality and promote an inclusive society. Given the approach of Welsh Government in embedding human rights and equalities legislation in devolved areas, this poses a potential for conflict in approaches with regards to policing. Welsh Government's policy framework places a statutory duty on local authorities to respond to the need of communities and develop transit sites, which could help in mitigating these issues, however due to inaction, the UK Government legislation has the potential to exacerbate existing inequalities, further marginalise and criminalise communities. By developing accessible transit sites available in Wales, alongside further development of residential sites, families will have access to suitable and sufficient stopping places, which could help in the prevention of the drastic measures set out within this legislation.

The ['Enabling Gypsies, Roma and Travellers' Plan \(2018\)](#) highlights that in some areas of Wales, Roma and Travellers are the largest minority population. These could be considered priority areas for engagement with police forces to mitigate the risks to children and families. Due to the disproportionate impact this will have on travelling families, it is important to consider the areas where unauthorised site developments have occurred, putting plans in place to ensure the risks are managed with human rights (including children's rights) as a priority. As previously highlighted barriers to engaging with travelling community members in the GTAA process may present a data gap, making it difficult to predict the locations in Wales where this legislation may have greater impact.

Mae Bil yr Heddlu, Trosedd, Dedfrydu a'r Llysoedd adran 4 yn her aruthrol i ddiogelu hawliau plant Sipsiwn, Roma a Theithwyr a'u teuluoedd. Trwy droseddoli tresmasu, gallai'r bil hwn orfodi teuluoedd i mewn i'r system cyfiawnder troseddol a gofal, a gadael teuluoedd yn ddigartref trwy fynd â'u cerbydau.

Mae [canllawiau drafft](#) Llywodraeth y Deyrnas Unedig i heddluoedd hefyd yn destun pryder arbennig, gan eu bod yn nodi "*should not gold-plate human rights and equalities legislation*". Er i [heddluoedd nodi](#) nad ydynt yn cefnogi troseddoli tresmasu, mae'r canllawiau hyn yn tanseilio ymdrechion i daclo anghydraddoldeb a hybu cymdeithas gynhwysol. O ystyried agwedd Llywodraeth Cymru at wreiddio hawliau dynol a deddfwriaeth gydraddoldeb mewn meysydd a ddatganolwyd, gallai hyn achosi gwrthdaro yn y gweithredu ynghylch plismona. Mae fframwaith polisi Llywodraeth Cymru yn gosod dyletswydd statudol ar awdurdodau lleol i ymateb i angen cymunedau a datblygu safleoedd tramwy, a allai helpu i liniaru'r materion hyn, ond oherwydd diffyg gweithredu, gallai deddfwriaeth Llywodraeth y Deyrnas Unedig waethygu'r anghydraddoldeb sydd eisoes yn bodoli, gan yrru cymunedau ymhellach i'r cyrion a'u troseddoli. Trwy ddatblygu safleoedd tramwy hygyrch yng Nghymru, ochr yn ochr â datblygu mwy o safleoedd preswyl, bydd teuluoedd yn cael mynediad i fannau addas a digonol i aros, a allai helpu i atal y mesurau eithafol a geir yn y deddfwriaeth hon.

Mae'r ['Cynllun Galluogi Sipsiwn, Roma a Theithwyr \(2018\)](#) yn amlygu mai Roma a Theithwyr yw'r boblogaeth leiafrifol fwyaf mewn rhai rhannau o Gymru. Gellid ystyried y rhain yn ardaloedd blaenoriaeth i ymgysylltu â heddluoedd er mwyn lliniaru'r risgiau i blant a theuluoedd. Oherwydd yr effaith anghymesur bydd hyn yn ei chael ar deuluoedd sy'n teithio, mae'n bwysig ystyried yr ardaloedd lle mae datblygu safleoedd heb awdurdod wedi digwydd, a rhoi cynlluniau ar waith i sicrhau bod y risgiau'n cael eu rheoli, gyda hawliau dynol (gan gynnwys hawliau plant) yn flaenoriaeth. Fel yr amlygwyd eisoes, gall rhwystrau i ymgysylltu ag aelodau o'r gymuned deithiol ym mhroses y GTAA achosi bwlch yn y data, sy'n golygu ei fod yn anodd rhagfynegi'r lleoliadau yng Nghymru lle gallai'r deddfwriaeth hon gael mwy o effaith.

Submitted by:



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Children's Commissioner for Wales