

HB 15

National Assembly for Wales

Communities, Equality and Local Government Committee

Housing (Wales) Bill: Stage 1

Response from: Community Law Partnership

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Introduction

1. The Community Law Partnership (CLP) is a radical, progressive firm of solicitors specialising in the law relating to Housing and Public Law. CLP incorporates the Travellers Advice Team (TAT) – a ground-breaking nationwide 24 hour advice service for Gypsies and Travellers. TAT advises and represents Gypsies and Travellers throughout England and Wales and has taken some of the leading cases in this area of the law. Since our only work in Wales is Gypsy and Traveller work we will only comment on those particular parts of the Housing (Wales) Bill (hereafter ‘the Bill’).
2. The Bill introduces provisions with regard to Gypsies and Travellers at clauses 84 to 89.
3. Clauses 84 and 85 concern the duty on local authorities to assess the accommodation needs of Gypsies and Travellers and include a system of approval by the Welsh Ministers.
4. Crucially clause 86 introduces a duty to meet assessed needs, stating:
(1) If a local housing authority’s approved assessment identifies needs within the authority’s area with respect to the provision of sites on which mobile homes may be stationed the authority must exercise its powers in section 56 of the Mobile Homes (Wales) Act 2013 (power of authorities to provide sites for mobile homes) so far as may be necessary to meet those needs.
5. The Mobile Homes (Wales) Act 2013 section 56 states:

- (1) *A local authority may within its area provide sites where mobile homes may be brought, whether for holidays or other temporary purposes or for use as permanent residences, and may manage the sites or lease them to another person.*
6. Clause 87 of the Bill provides, equally crucially, for a power of direction by the Welsh Ministers if a local authority has not complied with the duty under clause 86.
 7. Clause 88 introduces a duty on local authorities to provide relevant information required by the Welsh Ministers and clause 89 relates to Housing Strategies.
 8. CLP congratulates the Welsh Government on the introduction of these provisions which we fully support. These provisions are vital in order to finally resolve the problem of unauthorised encampments and developments. These provisions make complete financial sense in doing away with all the vast costs involved in dealing with unauthorised encampments and developments (see, for example, Morris & Clements *At what cost? The cost of managing unlawful Gypsy encampments*, Policy Press, 2002).

Lessons from the past

9. It appears that all main political parties are in agreement that the solution to problems arising from unauthorised encampments and unauthorised developments lies in ensuring that there is adequate authorised permanent and transit site provision for Gypsies and Travellers. However the Westminster Government have made serious errors which have thwarted the provision of new sites. The lack of sites also has disastrous knock on effects in terms of education, healthcare and economic opportunities (see *Niner Accommodation needs of Gypsy-Travellers in Wales*, Welsh Assembly Government, 2006).
10. The Caravan Sites Act (CSA) 1968 introduced a duty on local authorities to provide sites for Gypsies and Travellers (brought into force in 1970). It was eventually repealed by the Criminal Justice and Public Order Act 1994. It is true to say that the vast majority of the 350 local authority Gypsy and Traveller sites that currently exist would probably not have been developed without the existence of that duty. However, it is also right to point out that successive central governments failed to ensure that all local authorities complied with the duty and, thus, too few sites were built during this period of time to meet the needs of the Gypsy and Traveller population in England and Wales.
11. The Department of the Environment Circular 01/94 (Welsh Office Circular 02/94) *Gypsy Sites and Planning* was issued at the time of the repeal of the statutory duty to make site provision and placed the emphasis on the provision of private sites. It gave each local authority the responsibility for assessing the accommodation needs of Gypsies and Travellers in its area and identifying land which would meet those needs in its Local Plan. However, few if any local authorities complied with the policy requirement and as a consequence the shortage of site provision increased.
12. Research has shown that, in this period of time, some 90% of planning applications made to local authority planning committees by Gypsies and Travellers were unsuccessful (*Confined, Constrained and Condemned*, Friends, Families and Travellers (FFT), 1996). In a later study by FFT (*Planning Appeals Gypsies and Travellers*, January 1998) it was shown that only 34% of appeals to Planning Inspectors by Gypsies and Travellers against unsuccessful applications were successful.

13. By the time that the Niner report *Local Authority Gypsy/Traveller Sites in England* was published in 2003, it was estimated that between 1,000-2,000 permanent and 2,000-2,500 transit pitches were required by 2007 just to keep up with the Gypsy and Traveller population.
14. Circular 01/94 was replaced in 2006 by the policy in Office of the Deputy Prime Minister (ODPM) Circular 01/06 *Planning for Gypsy and Traveller Caravan Sites*. Circular 01/06 required each local authority to assess the accommodation needs of Gypsies and Travellers in its area and then report the findings to the regional planning body which would then benchmark the assessment and indicate the number of pitches that the local authority should make provision for in its development plan. However, before it could have any significant impact, Circular 01/06 was withdrawn in England by the DCLG in March 2012 and replaced by *Planning policy for traveller sites* (PPFTS). The new planning guidance gives each local authority the ability to set its own target for site provision in its area and, in the absence of any effective supervision by central government, Gypsy and Traveller groups predict that local authorities will do little to make additional site provision and that the slight progress made under Circular 01/06 is likely to grind to a halt. This is already becoming apparent throughout England.

Conclusion

15. The history of site provision in England and Wales shows conclusively that the answer to the problem lies in the kind of provisions which we find in sections 84 to 89 of the Bill and, once again, we fully support these provisions.

Community Law Partnership 12th January 2014