



## HOUSE OF COMMONS

Rt Hon Priti Patel

Secretary of State for the Home Department

By email

4 February 2020

Dear Home Secretary

We wrote to you on 29 October 2019 (letter attached) about the Government's review of 'powers for dealing with unauthorised development and encampments', but we cannot trace a response. A week after sending our letter the Home Office published the 'Strengthening police powers to tackle unauthorised encampments' consultation. We are deeply concerned about the proposals outlined in the consultation and would appreciate the opportunity to meet you to discuss this and the points raised in our previous letter.

As well as being alarmed by the proposals outlined in the consultation, we are also troubled by the manner in which this consultation is being conducted, which is problematic on several counts:

- Many of the questions are ambiguous and misleading (particularly Q1-Q4).
- The consultation was launched only a matter of hours before parliament was dissolved in November
- The consultation paper fails to present alternative solutions to addressing unauthorised encampments (some of which are outlined in our previous letter to you), or to explain the wider context of the national shortage of Traveller sites.
- The consultation paper fails to list the large number of other eviction powers at the disposal of the police, local authorities and landowners, and that other specific laws exist to deal with individual incidents of anti-social behaviour.

We would also like to draw your attention to the recent Court of Appeal judgement in the case of *The Mayor and Burgesses of the London Borough of Bromley v Persons Unknown* [2020] EWCA Civ 12. This ruling came after Bromley Borough Council appealed against the refusal of the High Court to grant their application for a 'wide-injunction' against Travellers stopping on 171 parcels of land in the Borough. The Court of Appeal upheld the High Court decision, recognising the incompatibility of borough wide

injunctions (which prohibit Travellers from stopping in an area) with equality and human rights legislation. The judgement recognised that such measures were not proportionate given the lack of available sites for Gypsies and Travellers to stop and the importance of welfare considerations. In Lord Justice Coulson's conclusion to the judgement he states;

*'Finally, it must be recognised that the cases referred to above make plain that the Gypsy and Traveller community have an enshrined freedom not to stay in one place but to move from one place to another. An injunction which prevents them from stopping at all in a defined part of the UK comprises a potential breach of both the Convention and the Equality Act, and in future should only be sought when, having taken all the steps noted above, a local authority reaches the considered view that there is no other solution to the particular problems that have arisen or are imminently likely to arise.'*

Given this recent ruling, it is hard to see how criminalisation of trespass would be compatible with the European Convention on Human Rights and the Equality Act 2010.

We would also like to draw your attention to the findings of [a report](#) published by the organisation Friends, Families and Travellers (November 2019), which analysed Police Forces' and Police and Crime Commissioners' responses to the 2018 consultation 'Powers for dealing with unauthorised development and encampments'. The key findings were:

- 20 police responses were submitted to the Government's April 2018 consultation
- 75% of police responses felt current police powers were sufficient and/or proportionate.
- 84% of police responses did not support the criminalisation of unauthorised encampments.
- 65% of police responses said that lack of site provision was the real problem.

As we mentioned in our previous letter, there are a number of workable solutions to address the number of unauthorised encampments without recourse to further, unnecessarily punitive, legislation or extension of police powers. It is apparent from this report, and by referring to the National Police Chiefs Council's and the Association of Police and Crime Commissioners' [joint response](#) to the former consultation that the police share our view. The NPCC and APCC stated, in response to the 2018 consultation question "Do you consider that the Government should consider criminalising unauthorised encampments, in addition to the offence of aggravated trespass?";

*'In summary, we believe that criminalising unauthorised encampments is not acceptable. Complete criminalisation of trespass would likely lead to legal action in terms of incompatibility with regard to the Human Rights Act 1998 and the Public Sector Equality Duty under the Equality Act 2010, most likely on the grounds of how could such an increase in powers be proportionate and reasonable when there are insufficient pitches and stopping places?'*

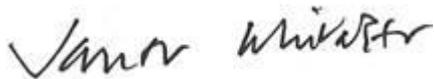
Their response also stated;

*'The obvious answer to unauthorised development and encampments is the provision of pitches, both public and private, including not only permanent pitches but also transit pitches and emergency stopping places. Additionally, there is the concept of 'negotiated stopping'.'*

Given the importance of the human rights aspects of the proposals and the significance of the Court of Appeal ruling, we urge you to withdraw your proposals to criminalise trespass or to introduce tougher police powers to evict Travellers.

We would very much welcome the opportunity to meet you to discuss in more detail some of the issues raised in our letters to you.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kate Green'.A handwritten signature in black ink, appearing to read 'Janet Whitaker'.

Baroness Janet Whitaker and Kate Green MP  
Co-Chairs, All-Party Parliamentary Group for Gypsies Travellers and Roma