



## **Response to the Communities, Equality and Local Government Committee inquiry into the general principles of the Housing (Wales) Bill. January 2014**

### **Introduction**

1.1 The **Travelling Ahead** project, hosted by Save the Children, was established in 2009 with the aims of supporting and promoting the participation and rights of Gypsy, Roma and Traveller children and young people to have say in decision making and influence services, policy and legislation which affect their day to day lives.

1.2 The project has supported the development of local Gypsy, Roma and Traveller youth forums and groups around Wales and hosts a twice yearly national forum for these young people to meet and work together on issues of shared concern alongside policy, training and advocacy work. For more information see our website [www.travellingahead.org.uk](http://www.travellingahead.org.uk)

1.3 We are pleased to provide a response to this inquiry by the Communities, Equality and Local Government Committee into the general principles of the Housing (Wales) Bill.

1.4 Our comments relate specifically to those new duties set out in Part Three of the Bill dealing with meeting the accommodation needs of Gypsies and Travellers in Wales.

### **Overview**

2.1 **Save the Children and Travelling Ahead welcome the proposal in the Bill which will place a statutory duty on local authorities to provide new Gypsy and Traveller sites where need has been identified; we believe legislating to this effect is crucial.**

2.2 Whilst local authorities already have a duty to carry out an assessment of the needs of Gypsies and Travellers under Section 225 of the Housing Act 2004, the reality is that following the removal of the duty to provide sites (through the repeal of the Caravan Act in 1994) local authorities in Wales (as elsewhere) have been slow in ensuring that the housing needs of Gypsies and Travellers are met. No site has been built in Wales since 1997 and the demand for site pitches far exceeds the current levels of provision leaving hundreds of children and young people technically homeless in Wales, a rise in unauthorised encampments and the accompanying barriers and continued

discrimination in service provision and access to education, health, play and safe environments that all children and young people in Wales have a right to enjoy.

2.3 The Committee for the Rights of the Child recognises this lack of access to secure housing as a basic violation of children's rights to an 'adequate standard of living' (Article 27 UNCRC) and in 2008, having visited Gypsy and Traveller families in Wales, they raised concerns about the UK Government's failure to target child poverty strategies at 'those groups of children in most severe poverty and that the standard of living of Traveller children is particularly poor.'

2.4 They recommended that the UK Government should reintroduce 'a statutory duty for local authorities to provide safe and adequate sites for Travellers (65d Concluding Observations).

2.5 **We are therefore delighted that the Welsh Government is the first in the UK to take this step and implement this significant recommendation from the Committee for the Rights of the Child – this is precisely the way in which the Rights of Children and Young Person Measure was intended to impact directly and positively on the day to day lives of children and young people in Wales.**

### **Evidence**

3.1 Children and young people have been consistent in their messages to us since the 2003 Review of Service Provision for Gypsy Travellers in Wales carried out by the National Assembly's Equality of Opportunity Committee where they described the impact of the lack of safe and secure housing on their education, wellbeing and inclusion leading the Chair in their summing up to comment:

*'The stark realities laid before the Committee by a group of young people from the Gypsy-Traveller community brought home the challenges we face in making a real difference to their lives.'*

3.2 Pat Niner's 2004<sup>1</sup> report found that 'in the absence of culturally-specific accommodation (predominantly residential Gypsy and Traveller sites), the shortfall in accommodation is met by unauthorised encampments which often fail to provide even remotely adequate living standards for Gypsies and Travellers, and which perpetuate social exclusion through a lack of access to education and health care.'

3.3 In the 2010 consultation carried out by Save the Children<sup>2</sup> for the Welsh Government's draft strategy preceding Travelling to a Better Future the issue of 'Where you Live' was a priority for most of the more than 100 children and young people who took part. They talked about the need for sites, how it felt to be living in a house, the loss of community and family ties and the difficulties and uncertainties of being moved on from unauthorised encampments. The poor living standards on official as well as unofficial sites were highlighted by many, describing and drawing pictures illustrating poor or no facilities, hazardous physical environments and lack of safe space to play or safe ways to access leisure, education and health services

'Everybody needs to live somewhere safe and clean'

'We don't like living in a house' 'It's too closed in and we are not used to it'

<sup>1</sup>Niner Quoted in INEQUALITIES EXPERIENCED BY GYPSY AND TRAVELLER COMMUNITIES: A REVIEW: Cemlyn et al. EHRC 2009

<sup>2</sup> Travellers and Gypsies: Generations for the Future. A report of the consultations with children and young people on the Welsh Assembly Government's draft Gypsy Traveller Strategy. Aspinwall & Larkins. Save the Children 2010

'Like a prison – closed in by 4 walls' 'We would like to be back on a new site with just our families'

'Need proper facilities – toilet, bath, water, concrete'

'Danger to the children' 'Water' 'Rats' 'There is nowhere safe for the children to play'

'The site is in the wild, we should have a bus stop' 'Traffic, noise, smell of gas'

'Police coming all the time, moved on all the time'

'I miss talking to Travellers; it's the loveliest feeling in the world – waking up to all Travellers around you. When I get married I'll be back on site as soon as I can'

3.4 In our response to Homes for Wales 2012 the project spoke with 47 children, young people and their families about the proposal to include a duty on local authorities to provide sites; of those we spoke to 100% agreed that a new duty needs to be introduced – the full responses can be seen here: <http://travellingahead.wordpress.com/2012/08/15/response-to-the-welsh-governments-homes-for-wales-a-white-paper-for-better-lives-and-communities>

### Specific issues

4.1 We welcome the references in the Explanatory Memorandum to the equality impact assessment, the Equality Act and to the duties of Ministers under the Rights of Children and Young Persons Measure 2011 (8.10 and 8.14) that highlight the positive outcomes of the Housing Bill that have been identified for the human rights of Gypsies and Travellers in Wales, and in particular the reference to improving outcomes for children and the recognition by the European Court of Human Rights that the vulnerable position of Gypsies and Travellers means that 'special consideration should be given to their needs and that the state should facilitate their way of life'.

4.2 However we believe that the requirement on local authorities under 3.84 (2) - *In carrying out an assessment under subsection (1) a local housing authority must consult such persons as it considers appropriate* **should include specific reference to a duty to consult with Gypsies and Travellers themselves;** this would comply with the duties under the Children and Families Measure as well as the Welsh Government commitment contained in Travelling to a Better Future to improve the engagement and participation of Gypsies and Travellers; children, young people and adults.

4.3 We welcome the requirement on local authorities in 3.85(2) to submit their accommodation assessments reports to the Welsh Ministers for approval. During our consultation on the Homes for Wales white paper some respondents expressed concerns over the wording, "where there is evidence of a clear need for new sites." These families asked how the Welsh Government will check that local authorities are producing robust monitoring procedures to capture this evidence. Furthermore, some respondents worried that even if this evidence was compiled, local authorities would simply fail to find adequate and available land for Gypsy and Traveller sites so the new powers under 87(10) are we believe entirely necessary given the lack of political will and slow progress to date at a local level in Wales.

4.4 Whilst we appreciate that this bill deals with housing issues we are of the opinion that the Welsh Government should ensure that the provision, planning and design of new (and existing) sites in Wales do **pay attention to the need to facilitate 'activities normally carried out by Gypsies and Travellers' as referred to in 86(2).** If Welsh Government accepts the ECHR ruling that 'special consideration should be given to their needs and that the state should facilitate their way of life'

then local authorities should work to ensure that the livelihoods, education, training and employment of Gypsies and Travellers are considered when accommodation needs are assessed.

4.5 Pat Niner in 2003 and 2004 noted that the **main barriers to providing sufficient accommodation** (aside from the lack of a statutory duty) are the **'planning system and, more fundamentally, resistance from the sedentary population to the idea of new sites for Gypsies and Travellers.'** Whilst, as stated, we very much welcome the new provisions for Gypsies and Travellers in the Housing (Wales) Bill, indeed we can see that awareness of the new duty has already prompted action amongst local authorities in anticipation of its introduction; however the negative perceptions still held by many of the public and perpetuated by the media present local authorities with significant challenges in successfully gaining agreements, planning permissions and public support for the development of new sites.

4.6 Whilst the new legislation will provide local authorities with a clear legal mandate and duty the recent experiences of public consultations on new sites around Wales and elsewhere has seen the mushrooming of well organised and resourceful resident's opposition groups, often publically supported by councillors (and other elected members) and with the ear of the local newspapers. Lengthy public consultations have seen thousands of responses from the public relating to the housing needs of a tiny minority ending in elected members failing to support council officer's recommendations for fear of losing their vote. These processes played out in public meetings, the press and social media have a very negative impact on the children and young people we work with and their families, increasing their experience of discrimination and social exclusion; and have the potential to result in local authorities going 'back to square one' in the search for suitable sites.

4.7 **We very much encourage the Welsh Government to consider the need for targeted, mandatory training** on these issues for local authority members and relevant officials and look at how the **duties to promote good relations between different groups under the Equality Act** and the dual agendas of community cohesion and tackling hate crime can ensure that the **Housing Bill delivers positively for Gypsies and Travellers in Wales.**

4.8 Pat Niner's second barrier to providing sufficient accommodation was identified as the 'planning system'. Members of the committee will be aware that not all Gypsies and Travellers wish to live on a local authority run site - the Draft Planning Reform (Wales) Bill currently out for consultation will have implications for Gypsies and Travellers both in terms of local authority provision but also for those wishing to apply for planning permission to live on their own land. We recommend that the Welsh Government ensure that an **adequate equality impact assessment with reference to Gypsies and Travellers** is carried out to ensure that there is consistency of approach across the government to progressing equality of access to housing and accommodation for Gypsies and Travellers.

**If you require any further information or clarification we will be happy to assist**

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