

THE ROAD AHEAD

A response to 'Travelling to a Better Future'

INTRODUCED BY JULIE MORGAN, AM



MARCH 2012

Foreword

I am glad to have been asked to present "*The Road Ahead*" to the Welsh Government and Assembly Members.

Whilst the Member of Parliament for Cardiff North (1997 -2010) I chaired the All Party Parliamentary Group on Gypsies & Traveller Law Reform and as part of that work I brought forward a Ten Minute Rule Bill proposing security of tenure for Gypsy and Traveller caravan dwellers on local authority sites. This led to the UK Government amending the definition of a "protected site" under the Mobile Homes Act 1983 in the Housing & Regeneration Act 2008. In the course of these efforts, I worked closely with legal aid lawyers and other professionals specialising in Gypsy and Traveller issues together with agencies working in the field.

This group of committed people have now produced an independent analysis of the Welsh Government's national policy framework, "*Travelling to a Better Future*", and I readily accepted their invitation to put forward and highlight the analysis on their behalf. I also want to thank everybody involved for the work that they do.

I am delighted that Wales is leading by example in establishing the first national Gypsy and Traveller framework in the UK but nobody has a monopoly of wisdom. I commend "*The Road Ahead*" as part of an open discussion on what needs to be done in Wales to redress the inequalities faced by Gypsies and Travellers in their daily lives.

Julie Morgan AM

Assembly Member for Cardiff North

March 2012

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Travelling to a Better Future – an analysis

1. Travelling to a Better Future (TTBF) is the report published by the Welsh Government (WG) in September 2011 and described by them as “the first strategic national Gypsy and Traveller policy document developed in the UK” (p.6). This analysis of the report is presented by Julie Morgan, AM, and supported by those organisations and individuals listed at the end.
2. We are pleased that this framework starts with a clear statement of the WG’s equality and diversity values and principles, and that Gypsies and Travellers are seen as an integral part of the Welsh community, whose needs and aspirations should be catered for. We are also pleased that this report has identified the issues that contribute to the vulnerability and exclusion of Gypsies and Travellers and the key policy areas that must be addressed to combat that vulnerability and exclusion. It is most unfortunate that the Westminster Government is not adopting a similar approach.
3. In terms of statistics, the WG carried out an informal desk based exercise in January 2009 and estimated that there were 2,000 Gypsies and Travellers on sites in Wales (authorised and unauthorised) and 4,000 Gypsies and Travellers in Wales in total (pp.10-11).
4. Importantly, with regard to Article 8 of the European Convention on Human Rights (the right to respect for private and family life and home), the report acknowledges that “‘Home’ can include a caravan, even if it is unlawfully or illegally parked. As such Article 8 applies to those persons on unauthorised encampments as well as tenants of authorised caravan parks” (p.15).
5. The Housing and Regeneration Act 2008 s318 amended the definition of ‘protected site’ in the Mobile Homes Act 1983 (s5(1)) (MHA 1983), thereby bringing local authority Gypsy and Traveller sites within protection. This amending provision has been brought into force in England with effect from 30th April 2011¹ but not in Wales. Whilst the provision is not in force in Wales, Gypsies and Travellers on Welsh local authority sites are at risk of dispossession. We regret this delay and urge the WG to bring this provision into force as soon as possible.

¹ The Housing and Regeneration Act 2008 (Commencement No 8 and Transitional, Transitory and Saving Provisions) Order 2011 SI 2011/1002.

6. On 21st March 2012 WG will follow the example of the Westminster Government by transferring all MHA 1983 disputes arising on existing 'protected sites' (apart from possession actions) to Residential Property Tribunals (RPTs).² Since full legal aid extending to representation and advocacy is not usually available for proceedings before RPTs, a similar transfer in relation to local authority Gypsy and Traveller sites when they acquire protected status would result in inequality of arms and possible injustice; low income Gypsies and Travellers would be deprived of representation in what can often be complex legal matters. Moreover this is in the context where the educational disadvantage and literacy problems within the Gypsy and Traveller community mean that many members of the community may have grave difficulties in dealing with disputes before RPTs. We therefore urge the WG to keep all disputes arising on local authority Gypsy and Traveller sites within the jurisdiction of the county court when s. 318, as mentioned above, is brought into force in Wales.
7. The WG are retaining their Circular 30/2007 *Planning for Gypsy and Traveller Caravan Sites*. This is excellent news. Unfortunately the Westminster Government is in the process of replacing Office of the Deputy Prime Minister (ODPM) Circular 01/2006 (which is very similar to 30/2007) despite all the research evidence in England showing that 01/2006 was beginning to have a positive effect.
8. The report states that "based on emerging figures from accommodation needs assessments, an additional 300-350 pitches are required to meet current and future demand"(p.18). The report confirms that the situation has not improved and has, in fact, deteriorated since the Niner report *Accommodation needs of Gypsy-Travellers in Wales* (2006) (p.18).
9. The report states that:

The Welsh Government has demonstrated a clear commitment to the accommodation agenda and has provided the leadership at a national level. What would underpin this national commitment is leadership at the regional level. Local authorities have in the main not made this commitment, with perhaps a few exceptions (p.19).

10. The report continues:

Welsh Ministers have the legislative competence to place a duty on local authorities to deliver sites which they have identified a need for in their local development plans. However, this Framework is about putting in place the building blocks to help local authorities do this in a way which enables them to meet their duties as representatives of their communities, and their collective responsibility in ensuring the effective running of councils (p.19).

11. The WG thus identifies the failings of Welsh local authorities but, it must be said, fails to indicate how this will be dealt with.

12. The WG states that:

² The Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (Wales) Order 2013.

The Gypsy and Traveller Refurbishment Grant and the Gypsy and Traveller New Sites grant demonstrates our commitment to bringing the existing network up to a decent standard...and build new sites, including transit sites (p.20).

We understand that there has been poor take up of this grant aid by local authorities leading to a budget underspend and are very pleased to see that, in an effort to encourage authorities to submit bids, both these grants have recently been made 100% grants. However the reduction in the overall funding being made available is disappointing. Since 2007/2008 £2.3m has been allocated to refurbish 11 sites. For 2011/2012, £2m is available. £1.75m is allocated for 2012/2013 and £1.5m for 2013/2014 (p.20).

13. The WG has provided two sets of guidance on the design and management of rented Gypsy and Traveller sites (both of which are very similar to the English guidance) (p.21). The bi-annual count was reintroduced in July 2006 (as a result of a recommendation in the Niner report) (p.21).

14. The WG aims to gather data on planning applications since 30/2007 was published (p.23). This research will be extremely useful (especially given what is happening in England).

15. Some very useful and important statements are contained in the report:

It is important to recognize that many Gypsies and Travellers have a cultural aversion to living in bricks and mortar accommodation (p.24).

Without appropriate site provision effective enforcement against unauthorised encampments cannot be achieved...It is more cost effective to provide a site than to enforce against unauthorised encampments in an area with no permanent site provision and where there are a high number of unauthorised encampments (p.25).

16. Reference is made to the WAG/ODPM 2005 guidance on unauthorised encampments: "The Welsh Government will update this guidance to reflect current circumstances in Wales and include examples of best practice from Wales" (p.25). The WG inform us that the consultation on this is to take place in 2012/2013.

17. Gypsy and Traveller groups have long been arguing that local authorities ought to be able to identify temporary stopping places. Importantly and helpfully the report states that "some local authorities may have several plots of underused land. It may be feasible to establish Gypsy and Traveller sites on this land" (p.25).

18. Certain objectives are put forward with regard to education, engagement and participation and health and we would urge people to study those. We are very pleased to note that the WG financial support for the Traveller Education Service (TES) (p.30) may have avoided the decimation that has occurred and is still occurring in the TES in England.

19. On the question of consultation, the WG states:

Consultation with the Gypsy and Traveller community must not rely on written methods of communication only as there are often low levels of literacy among some sections of the community.

It is strongly recommended that face to face consultation with the Gypsy and Traveller community is employed (p.51).

This approach seems to have been accepted by the Westminster Government which has now held two oral consultation sessions with regard to the new draft planning guidance *Planning for traveller sites*.

20. The Criminal Justice and Public Order Act 1994 repealed the statutory duty (contained in the Caravan Sites Act 1968) on local authorities to provide Gypsy and Traveller sites. We urge the WG to recognize that Ministerial advice to local authorities issued by WG and by the Westminster Government since the repeal of the duty has failed to ensure the delivery of adequate sites. The only effective way of resolving this issue is by the WG restoring a duty to provide or facilitate the provision of sites in Wales.

21. We commend the many positive aspects of this report as flagged up above and we especially commend the retention of Circular 30/2007. We make the following recommendations:

- a) That the WG uses its legislative competence to reintroduce the duty on local authorities to provide or to facilitate the provision of sites. This is the only way that the admitted failings by Welsh local authorities can be counteracted;
- b) That the WG has reference to the extremely extensive consultation on the MHA 1983 carried out by the Department of Communities and Local Government in England and does not delay any further in introducing the MHA 1983 on local authority sites;
- c) That when implementing the MHA 1983 on local authority Gypsy and Traveller sites the WG keeps disputes which arise within the jurisdiction of the county court rather than effecting a transfer to RPTs.

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The Travellers Advice Team within CLP has a new national telephone advice line for Gypsies and Travellers on 0121 685 8677.

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